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THE

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NEW SERIES.
VOL. III.—PART II.

CONTAINING

ORIGINAL ARTICLES ON LEGAL SUBJECTS,
ALL IMPORTANT STATUTES,
THE RULES AND ORDERS OF THE VARIOUS COURTS,
THE GAZETTES, CAUSE LISTS,
AND MISCELLANEOUS LEGAL INFORMATION,

FOR

THE YEAR 1857:

WITH AN

ALPHABETICAL LIST OF BANKRUPTS,

AND

INDEX OF PRINCIPAL MATTERS.

LONDON:
H. SWEET, 3, CHANCERY LANE;
V. & R. STEVENS & G. S. NORTON, 26, BELL YARD.
DUBLIN:
HODGES & SMITH, GRAFTON STREET.

1858.

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The Jurist

No. 106, NEW SERIES.—Vol. III.
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JANUARY 17, 1857.

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Meetings.

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Tuesday, *Jan.* 13.

Bankrupts.

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JAMES HENRY SMITH, Oxford-street, and Connaught-terrace, Hyde-park, corset maker, Jan. 23 and Feb. 27 at 11, London: Off. Ass. Cannan; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, Bucklersbury.—Pet. f. Jan. 9.

JOSEPH WHITESIDE, Davies-street, Berkeley-square, watch manufacturer, Jan. 28 at half-past 1, and March 2 at 11, London: Off. Ass. Pennell; Sol. Abrahams, 23, Southampton-buildings, Chancery-lane.—Pet. f. Jan. 12.

EDMUND GODDARD, London-wall, Old Jewry, Fenchurch-street, and Aldgate, City, provision dealer, Jan. 27 at half-past 1, and Feb. 24 at 12, London: Off. Ass. Stansfeld; Sol. Burr, 12, Paternoster-row.—Pet. f. Jan. 12.

RICHARD CARPENTER, Museum-street, Bloomsbury, victualler, Jan. 23 at 1, and Feb. 24 at 12, London: Off. Ass. Lee; Sol. Mackeson, 59, Lincoln's-inn-fields.—Pet. f. Jan. 7.

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THE JURIST.

LONDON, JANUARY 17, 1857.

FEW subjects have given rise to more discussions than the question, how far Courts of equity will enforce a voluntary trust. The principle, indeed, upon which the Courts proceed has been clearly laid down, viz. that where a trust has been actually created, and the relation of trustee and cestui que trust established, it will be enforced in favour of volunteers; but that where there is a mere agreement, or an imperfect conveyance or assignment in favour of volunteers, equity remains quiescent, and will not, by creating a trust, or establishing the relation of trustee and cestui que trust, interfere in the absence of consideration.

The application, however, of this principle has been attended with some difficulty, and the cases are many of them not very easily reconcileable with each other. A recent case before the Lord Chancellor is deserving of notice, because, although it appears to be decided in accordance with the principles upon which the Court has always professed to act, some of the propositions laid down by his Lordship seem altogether to depart from them, and are directly adverse to decisions which hitherto have been considered as binding authorities. The case before alluded to is that of *Scales* v. *Maude*, (6 De G., Mac., & G. 43; 1 Jur., N. S., part 1, p. 1147). There the mortgagee of property wrote letters to the mortgagor and persons interested under him, containing the following expressions:—"I now give this gift to become due at my death, unconnected with my will. . . . . I hereby request my executors to cancel the mortgage deed. . . . . I again direct that my executors shall comply with my former request—that is, to cancel all deeds and papers I may have chargeable on the Rycroft estate." It was held by the Lord Chancellor that no effect could be given to such expressions. "In order," said his Lordship, "to sustain the case of the defendants, they must make out that this is a valid declaration of trust. But I do not think it is a declaration of trust at all, for it was intended merely to be a direction to the executors. The mortgagee speaks of a gift; there is, in fact, no gift, except in the direction to the executors. It was obviously revocable. . . . . *Mere declaration of trust by the owner of property in favour of a volunteer is inoperative, and this Court will not interfere in such a case. The case is different where there has been a change of legal ownership, and so a trust has been constituted, and then the Court will inquire what the trusts are.*"

The Lord Chancellor, therefore, appears to be of opinion that a person having property can only create a trust in favour of a volunteer by a transfer of the legal interest therein. But is this correct? According to the admitted principle upon which the Court acts, where a trust has actually been created, and the relation of trustee and cestui que trust established, equity will enforce the trust in favour of volunteers; but if a person declares himself to be a trustee for another, a trust is actually created, and the relation of trustee and cestui que trust is as completely established as if there had been an actual transfer of the legal ownership; and a Court of equity, therefore, has sufficient grounds for carrying the trusts into effect.

For authority upon this subject, we have only to turn to the well-known case of *Ex parte Pye—Ex parte Dubost*, (18 Ves. 14), where there was no transfer of the legal ownership from the donor of certain French annuities; but his Lordship decided in favour of the donee, because the donor had committed to writing what *seemed a sufficient declaration that he held that part of the estate in trust* for the donee. "It is clear," said Lord Eldon in that case, "that a Court of equity will not assist a volunteer; yet, if the act is completed, though voluntary, the Court will act upon it. It has been decided, that upon an agreement to transfer stock, this Court will not interpose; *but if the party had declared himself to be the trustee of that stock, it becomes the property of the cestui que trust, without more, and the Court will act upon it.*" We may also refer to *Wheatley* v. *Purr*, (1 Kee. 551); *M'Fadden* v. *Jenkyns*, (1 Ph. 153); *Frampton* v. *Frampton*, (4 Beav. 287); *James* v. *Bydder*, (Id. 605); *Thorpe* v. *Owen*, (5 Beav. 224); and *Stapleton* v. *Stapleton*, (14 Sim. 186), as authorities clearly bearing out the propositions laid down by Lord Eldon upon this subject. It is true, that where a person ineffectually attempts, by an imperfect gift, to confer an interest upon volunteers or trustees for their benefit, a Court of equity, however clear the intention may appear to have been to confer an interest upon the donees, will not interfere; and in this respect the decision of the Lord Chancellor in *Scales* v. *Maude* appears to be right.

The distinction between an imperfect gift and a declaration of trust, the legal ownership remaining unchanged, has been clearly recognised by Lord Cottenham in *Edwards* v. *Jones*, (1 My. & C. 237), where he adopted the views upon this subject of another very eminent equity judge—Sir William Grant. In that case, in which it was held that as a gift was incomplete the Court could not give effect to it, Lord Cottenham (admitting that if a trust had been declared the Court would have given effect to it) made the following observations:—"The general doctrine laid down by Sir William Grant is extremely applicable here. In order to bring this transaction within the rule, that if there be a trust created, and the relation of trustee and cestui que trust once constituted, the Court will execute the intention, it was argued here that the defendant became a trustee for the donee. The same argument was used in the case of *Antrobus* v. *Smith*, and it was met by Sir William Grant with this observation—'Mr. Crawford was not otherwise a trustee than as any man may be called so who professes to give property by an instrument incapable of conveying it. He was not in form declared a trustee; nor was that mode of doing what he proposed in his contemplation. He meant a gift. He says he assigns the property; but it was a gift not complete. The property was not transferred by the act. Could he himself have been compelled to give effect to the gift by making an assignment? There is no case in which a party has been compelled to perfect a gift, which, in the mode of making it, he has left imperfect. There is a locus penitentiæ as long as it is incomplete.' Every word of that judgment applies directly to the circumstances of the present case. It is impossible, indeed, to distinguish the two cases; and it is equally impossible to question the doctrine there laid down." (See also *Dillon* v. *Coppin*, 4 My. & C. 647; *Searle* v. *Law*, 15 Sim. 95). The distinction, therefore, between this class of cases and those where the settlor constitutes himself a trustee for volunteers, whatever foundation it may have in reason or common sense, is clearly marked, and has been long acted upon; and it would be a matter for regret if a subject already sufficiently difficult, and embarrassed with nice and not very easily defined or substantial distinctions, should be further entangled by contradictory propositions, emanating from the highest court, rendering it difficult, if not impossible, for counsel to advise with any certainty in such matters, and for inferior Courts how to act.

Suppose, in the case of *Scales* v. *Maude*, the mortgagee had written to A., the mortgagor, saying, "I hold the mortgaged estate called B., and the sum of 2500*l.* charged thereon by way of mortgage, in trust for you, A." Now, although the legal ownership both in the estate and debt would remain unchanged in the mortgagee, according to the doctrine and decision of Lord Eldon in *Ex parte Pye—Ex parte Dubost*, followed, as we have seen, by the decisions of many other eminent judges, the mortgagee would be held to have constituted himself a trustee for A.; and unless the doctrine promulgated by the Lord Chancellor prevail, such trust would be enforced in favour of A., though a volunteer. According to the Lord Chancellor, as no change of the legal ownership had taken place, and there being a mere declaration of trust by the owner of the property, viz. the mortgagee, in favour of a volunteer, it would be inoperative, and the Court could not interfere.

The principle, however, upon which the Court has always professed to act, and the current of authorities, seem to be clearly against the doctrine of the Lord Chancellor; nor does it seem probable that it will prevail against the decisions, and clearly expressed opinions, of so many other equity judges.

◆

The judgment of the Court of Common Pleas in the well-known cause of *Swinfen* v. *Swinfen* can hardly be said to *decide* the nature and extent of counsel's authority to compromise a case intrusted to his care. Crowder, J., was of opinion that in the case before the Court there was no sufficient evidence of a special authority for the compromise, and also that from the relation of counsel and client no general authority for that purpose could be implied. Cresswell and Williams, JJ., who were the only other members of the Court, differed from their learned brother, but whether on the ground of a special authority appearing, or a general authority existing, or on both of these grounds, does not appear. The three learned judges, however, concurred in thinking that under the circumstances no attachment ought to go against Mrs. Swinfen, and in severely reprobating the conduct of one of her counsel for his violent and unjustifiable attacks upon Sir Frederick Thesiger. "It is the unanimous opinion of the Court," said Crowder, J., "that Sir Frederick Thesiger's honour remains entirely unsullied in this transaction"—an opinion which we are sure will be held by all unprejudiced persons who take the trouble of investigating the facts of the case. There is no member of the Bar who is more deservedly respected and beloved than Sir Frederick Thesiger. The courtesy, and at the same time the dignity of his demeanour, his kindness to all around him, and the high principles of honour by which his conduct has ever been marked, are appreciated by that Profession which he adorns by his eloquence and his abilities.

The following observations by Crowder, J., upon the general question involved in the case, will be of interest to our readers:—

"It is contended, that without any special authority previously given, or any subsequent ratification, Sir F. Thesiger, by the mere relationship of counsel to his client, was invested with a general agency, and with authority to bind her by any agreement he might in his discretion enter into on her behalf while conducting the cause in court. It was assimilated in argument to the case of partners in trade, where a general agency, arising from their relation as partners, makes the acceptance of a bill of exchange by one binding upon the other in favour of third parties, although in the particular instance the authority may have been expressly revoked; and it was further insisted, that even if Mrs. Swinfen had come into court during the negotiation, and expressly prohibited Sir F. Thesiger from proceeding, yet unless she gave notice of her prohibition to the opposite party she would have been bound by her counsel's signature to that agreement. This introduces a question of very general and grave importance, far beyond the particular merits of the present case. Is counsel in the position of an agent clothed with any such general authority to bind his client? I must own, that in the course of a somewhat long professional experience at the bar, I was never aware of the existence of such an extensive agency, and was therefore much astonished at the proposition so broadly laid down by the counsel for the defendant in the course of the argument. We were not referred to any text-book, ancient or modern, in support of such a principle, nor to any positive decision in which such a doctrine has been established. It is said that business could not be conducted in courts of justice if counsel were not to trust each other as the authorised agents of their clients, and if the Court were not to place implicit reliance on their acts. This is quite true with respect to all acts or admissions of counsel in the ordinary course of the conduct of a cause. He professes, in conducting a cause, to act entirely on his own judgment and discretion, uncontrolled by his client, and the client leaves the whole management of the cause to the counsel. But where a compromise is contemplated, and litigation is to cease upon terms to be arranged, counsel then can only act, as I believe, under special instructions. Undoubtedly, by the courtesy of the Bar, counsel in all cases repose entire confidence in each other as the authorised agents of their clients. Where, therefore, opposing counsel confer together with a view to a settlement of a cause, each is supposed to act from his own client's express special authority, and each believes his opponent to be so acting. But I am not aware that any counsel engaged in making terms ever supposed for a moment that his opponent had power to bind his client without express instructions. Each acts upon the assumption that his adversary has his client's special authority to enter into the arrangement, which otherwise could not be concluded; and the judge also presumes the special authority given when he sanctions the drawing up of an order of Nisi Prius embodying the terms of the arrangement. If, therefore, in any such cases, a counsel, under a misapprehension of his client's instructions, and believing himself to have authority, acts in fact without it, he cannot, in my opinion, bind his client. When a litigant party in a cause intrusts his brief to a counsel, his object is to have the benefit of his advocacy, and not to employ an agent to negotiate terms of compromise. Taking the general rule of law laid down in Smith's Mercantile Law, 134, to be correct—namely, that the extent of the agent's authority is, as between his principal and third parties, to be measured by the extent of his usual employment—can it be said that it is part of counsel's usual employment not only to plead the cause of his client in court, but to negotiate for the division of the property in dispute between the litigant parties? A client might think a particular barrister an excellent advocate, and therefore employ him, but might have no confidence in his power as a negotiator of terms of compromise; and, taking the present case as an example, it would seem a strong thing to hold that counsel receiving a brief from a plaintiff in a feigned issue out of Chancery, to try whether there was a valid devise of a large estate to her, has incidentally an implied authority to decide that his client shall agree to waive the question, and give up all claim to the estate, upon receiving a certain annuity for life. We have been much pressed, in the course of the arguments, with the serious consequences which may result to the opposite party from such engagements being avoided; but these are precisely such as may result in every case from the acts of unauthorised agents, for the principal is never bound where the agent acts beyond the scope of his authority. Nor do I perceive the necessity of investing counsel with any such extensive agency; for where a client wishes to give his counsel a discretionary power to compromise a cause, it is very easy to do so by special instructions; and if the client gives no special instructions, it may fairly be assumed that he intends to give no power to compromise; but if the law should be laid down, that counsel, without special instructions, have such a power vested in them, it will be necessary, in every case in which the client is determined to try his cause out, not only to give special instructions to his counsel to make no compromise, but also to notify to the opposite party that he has so done, or else to be personally present at the trial, in order to be ready, at a moment's notice, to withdraw his brief from counsel, and thus revoke his authority. This would surely be attended with much inconvenience, and would be alike disagreeable to counsel and client. The case of *Filmer* v. *Delber* (3 Taunt. 486) has been referred to, in which it was held that the attorney had power to bind his client by an order of reference of Nisi Prius without his consent, and even against his instructions. But the Court there said that the client has a remedy against his attorney for any injury resulting from his acting without authority. Lord Tenterden, however, in *Biddell* v. *Dowse*, (6 B. & Cr. 255), where the question was, whether infants could be bound by the attorney agreeing to refer, seems to have carefully abstained from expressing any acquiescence in the decision of *Filmer* v. *Delber*, for he says —'Admitting, for the sake of argument, but no further, that the consent of the attornies of such of the parties in the suit as were adult might be binding upon them,' &c.; then deciding that the infants, at all events, were not bound. Attornies are responsible to their clients for negligence or unskilfulness; but no action lies against the counsel for his acts, if done bonâ fide for his client. In this respect, therefore, the counsel stands in a different position from the attorney, and it is every day's experience at Nisi Prius for counsel, when pressed by the judge to refer a cause, to inform the Court, that in the absence of any instructions, he had no power to agree to a reference; and my firm conviction always was, and still is, that counsel is not justified in referring a cause against the client's consent, and that it is not within the scope of his authority. It has been thought by the Legislature convenient for the due administration of justice that the presiding judge should have the power in certain cases to compel a reference of the whole or part of a cause; but before the passing of the Common-law Procedure Act, 1854, I apprehend no judge had power to insist upon a reference, and no counsel, without the consent of his client, had power to agree to one. The cases mainly relied upon as establishing the extensive general agency of counsel were, *Mole* v. *Smith*, (1 J. & W. 665); *In re Hobler*, (8 Beav. 101); *Hargrave* v. *Hargrave*, (12 Beav. 408); and *Furnival* v. *Bogle*, (4 Russ. 142). Of these, *Hargrave* v. *Hargrave* most resembles in its circumstances the present case. A feigned issue had been there directed by the Court of Chancery to try the legitimacy of the plaintiff, and at the trial a juror was withdrawn, upon an agreement entered into by counsel on both sides, without the instructions of their clients, for the division of the estate between the litigant parties. This agreement could not have been enforced in Chancery if the fullest authority had been given, because of the plaintiff's infancy, and the consequent want of reciprocity. The petition to the Master of the Rolls by the plaintiff only prayed that the defendant should elect whether he would abide by the agreement, and if not, that he should pay the plaintiff's costs thrown away upon the abortive trial. There is certainly some language of Lord Langdale in that case extremely strong to support the view of counsel's implied authority to bind his client, with respect to third parties, by such an agreement. But the decision against the defendant proceeded mainly on the ground that the defendant actually consented to the agreement at one time after it was made, though subsequently he determined to repudiate it; for Lord Langdale says—'From the affidavits, I cannot doubt, that beyond the general authority which the defendant's counsel had, there was, either previously or subsequently, an adoption or consent to the terms by the defendant. It is expressly stated, and not denied by the defendant, that he did at one time consent to the terms, and that he afterwards refused to be bound by them;' and the agreement was set aside, and a new trial granted upon the terms of the defendant paying all costs. Had Lord Langdale been quite satisfied that the general implied authority of counsel was sufficient of itself to bind the defendant it would have been needless to refer to his consent, which in that view was quite immaterial. The other cases seem to fall within the ordinary scope of counsel's authority at the Chancery bar, where parties to the suit are obliged to give their consent to many important matters through their counsel in open court. Thus, in *Mole* v. *Smith*, counsel consented to his client accepting in lieu of dower what the Court might think her entitled to out of certain purchase money; and Lord Eldon there said—'It is for Mr. Shadwell to consider whether he is authorised to give his consent for the widow. If he does, I must act upon it, and she will be bound by it.' And so in *Re Hobler*, (8 Beav. 101), where, on petition to tax a solicitor's bill without costs, by consent of the petitioner's counsel, a fresh counsel on a subsequent day applied to rescind the order, on the ground that his client had not authorised his former counsel's consent to the dismissal. Lord Langdale there said—'The business of the Court cannot proceed unless credit is given to the statements of counsel that they have authority for what they do. They must themselves judge of the extent of their authority under the ordinary responsibility. The petition must be dismissed, with costs.' The consent to the dismissal of such a petition was in the ordinary course of the practice of the Court, and unless counsel's word were to be taken as conclusive in such matters, it would be impossible that the ordinary business of the Court could proceed. But these cases seem to me to have no very strong bearing upon that now under consideration. In *Furnival* v. *Bogle*, where an agreement had been made by counsel without the plaintiff's authority, that the defendant should take money out of court, the decision was in favour of the plaintiff, and the agreement was annulled. The ground of the decision certainly was, that the counsel for the plaintiff had acted without a knowledge of all the facts essential to enable him to exercise a sound discretion for his client. This case, therefore, would seem to be no authority in favour of the defendant. The fact not known to the counsel in *Furnival* v. *Bogle* was, that the client had before rejected the very same proposition to which the counsel had agreed; and Lord Lyndhurst, adverting to that circumstance, said—'If Mr. Furnival had been in court when Mr. Sugden made his proposition, I have no doubt he would have prevented the arrangement from being acceded to; and if the circumstances to which I have referred had been communicated to his counsel, they would not have assented to the order; for it is quite impossible that they should have considered themselves justified in acceding, in the absence of Mr. Furnival and his solicitor, to the proposal of Messrs. Bogle, had they been aware that a similar offer had been before made to him and rejected; that upon its being renewed he returned no answer, which amounted to a second rejection; and that he had desired the utmost activity to be used in order to prevent the money being taken out of court.' Now, it appears in the present case that the plaintiff, before the commencement of the litigation, had rejected an offer much more advantageous in its terms than those contained in the agreement in question, and that she had refused again to entertain the proposition when recommended to her by Sir F. Thesiger, after the adjournment of the cause on Saturday. It appears further, however, from Mr. Simpson's affidavit, that he had communicated to counsel the fact of his client's rejection of the former offer. In this respect, therefore, the present case differs from *Furnival* v. *Bogle*. But I think it may well be doubted whether Lord Lyndhurst would have held Mr. Furnival bound by his counsel's agreement, if it had appeared on affidavit, that such agreement had been made with a full knowledge that it was in direct violation of his client's wishes and instructions, although with the honest intention of promoting his client's interests. Lord Lyndhurst's decision, however, based as it is on the counsel's ignorance of important facts, tends strongly to shew that he did not hold the client conclusively bound by the agreement of his counsel upon the ground of general agency and implied authority, for had he so held, the counsel's knowledge or ignorance of any fact, however essential to guide his discretion, would be wholly immaterial in considering whether the agreement was binding upon the client in favour of the opposite party, who could not know what facts had been stated to the plaintiff's counsel. The case of *Thomas* v. *Hewes* (2 Cr. & M. 519) was also cited in the arguments, and claimed by each side as an authority in his favour. In that case the power of counsel and attornies to bind their clients was much discussed and considered; but Bayley, B., in his judgment, cautiously avoided defining the extent of that power. He referred to the application of Lord Falmouth, which was to set aside an order of Nisi Prius embodying counsel's agreement on his behalf, and the rule of Court made thereon, on the ground of want of authority; but said—'If a distringas is applied for against Lord Falmouth, he may shew that he has given no authority by his attorney to enter into this arrangement; and if so, it is probable that this Court would decline granting a distringas, and leave the plaintiff to his remedy by action. If we were to interfere in a summary manner we should be preventing the parties from taking the opinion of a jury on the facts, and of a Court of error on the law.'"

Correspondence.

TO THE EDITOR OF "THE JURIST."

SIR,—It appears to me that there exists a very unfair prejudice against the framer of the Joint-stock Companies Act, 1856. Your numbers have for some weeks teemed with attacks which, while lavishly belabouring the draftsman, totally exculpate, by their silence, the Government that conceived the measure.

To take, for example, "Examiner's" letter of last Saturday: he, in an attempt to disprove the assertion, that intelligible divisions into separate headings facilitate the comprehension of a subject, brings forward three instances, which, as far as I can see, are far from producing the desired effect.

1. He says that the plan he disapproves of "confounds distinct matters up in one act," and he complains of the want of a new winding-up act. Now, in the first place, it is clear that the Government (whether their policy was good or bad is not now the question) did not intend to have a new winding-up act, but to modify the regulations as to winding up in the manner the new act prescribes. The workman, therefore, who moulds a measure into words is not to be blamed for the policy of the measure. In thinking the last stage of the existence of a company "distinct" from the first and following ones, "Examiner" must have either forgotten that the present act is to consolidate the law, or misconceived the true aim and essence of consolidation, which is, I venture to think, to embrace the *whole* of the subject-matter treated of.

2. His second objection puts prominently patent one of the chief facilities of the method he abuses. He says that the possible necessity of a partial repeal of the act will add to "the complications and difficulties which so much deform our legal system." A partial repeal, if it should become necessary, cannot, under the method adopted, be either complicated or difficult. "Part —— of the —— Act, 185—, is hereby repealed," is as free from complication and difficulty as words can well express, does not interfere with or affect any other part of the act, and can add but little deformity to any system, however hideous it may be assumed to be.

3. "The confusion of permanent and transitory matter in one statute" is again another assumption, another begging the question. The parts that contain the transitory can be easily and intelligibly separated from those containing the permanent matter, and can, except by an unnatural elasticity of criticism, be scarcely "con*founded*" with each other.

Yours &c.,

FAIR PLAY.

Lincoln's-inn, Jan. 3, 1857.

REPEAL OF OBSOLETE STATUTES.

TO THE EDITOR OF "THE JURIST."

SIR,—It may save some of your subscribers from making a wrong entry in their statutes if you mention that the titles of the obsolete acts repealed by the 19 & 20 Vict. c. 64, are taken from the folio edition of the *Record* Commission, which contains many variations from the common quarto edition, (particularly in the reign of Queen Anne); and that by the statutes which I subjoin in the first column are meant those which in the quarto edition are described as in the second column:—

Folio.	*Quarto.*
10 Edw. 3, stat. 3.	Statute of Nottingham de Cibariis utendis, 10 Edw. 3.
4 Hen. 5, stat. 2, c. 6.	4 Hen. 5, c. 6.
14 Car. 2, c. 18.	13 & 14 Car. 2, c. 18.
5 & 6 Will. & M. c. 13.	5 Will. & M. c. 13.
1 Ann. stat. 1, c. 15.	1 Ann. stat. 1, c. 21.
8 Ann. c. 11.	8 Ann. c. 6.

Your obedient servant,

B. R.

THE MERCANTILE LAW CONFERENCE.

FROM a circular which we have received we gather the following particulars relating to this conference, which will be held on the 28th instant. It will be composed, first, of such members of the Law Amendment Society as shall desire to attend; secondly, of representatives of town councils, chambers of commerce, trade associations, law societies, and other public bodies of a similar nature; thirdly, of such peers, members of Parliament, merchants, and other persons as the committee of the conference may invite.

The objects of the conference are—

1. To discuss and bring under the notice of Government, Parliament, and the public, those imperfections in the mercantile laws of the United Kingdom which most require amendment.

2. To collect information from the various bodies represented at the conference as to the best legislative remedies for these imperfections.

3. To consider the practical steps which ought to be adopted for obtaining such legislative measures.

The subjects for discussion will be chosen and classified by the committee before the opening of the conference, and their selection will be guided by the communications to be received from chambers of commerce and other bodies by whom delegates may be sent.

Among the subjects already determined on are—1. The law of bankruptcy. 2. The law of partnership. 3. The law of merchant shipping. 4. The law of principal and agent. 5. The 17th section of the Statute of Frauds. 6. The law of banking. 7. Assimilation of the commercial law of England, Scotland, and Ireland. 8. Tribunals of commerce.

The order of proceeding will be as follows:—

On Tuesday evening, the 27th January, a preliminary meeting will be held at the rooms of the Law Amendment Society, 3, Waterloo-place, Pall-mall. The meeting will commence at seven o'clock. The final arrangements for the business of the conference will be made.

On Wednesday morning, the 28th January, at twelve o'clock, the conference will be opened. The subjects for discussion will be brought on in succession, according to the scheme previously fixed on by the committee.

On Thursday morning, the 29th January, at twelve o'clock, the conference will be resumed, and the remaining business be disposed of.

Lord Brougham will be the chairman of the conference.

"SUCH" AND "SAID."

A CORRESPONDENT of the *Times* makes the following observations on the use of these words:—

"In the letter from the Office of Works to the engineers to whom the metropolitan drainage question is referred, there is an extract from an act of Parliament which illustrates the proper and the vulgar use of 'such.'

"'The Metropolitan Board of Works shall make such sewers,' &c. 'as they think necessary,' &c., 'and such board shall,' &c.

"'Such sewers as they think necessary'—equivalent to 'sewers of the kind which they think necessary'—is right; but 'such board,' intended as an equivalent for 'the board,' is altogether indefensible.

"I believe that it was first used as a substitute for the legal vulgarism 'said.'

"Why should not 'the,' or 'that,' or 'those,' instead of 'such,' or 'the said,' or 'the same,' or 'the aforesaid,' be used in acts of Parliament and legal documents as well as in the most accurate scientific composition?

"The Irish lawyers use 'said' by itself, instead of 'the said,' thus avoiding the use of two words by rejecting the one which ought to be retained; and Mr. T. Steere, the United States consul, according to your report of his speech at the dinner given to Lord Panmure, followed their example, by talking of "the exports—to said provinces.'

"Horne Tooke long ago denounced the legal vulgarisms 'he the said' and 'they the said,' and they are given up by all but slavish adherents to old forms.

"Would it not be as well for the chairman of the committees of the House of Lords and the Speaker of the House of Commons to insist that 'such' shall never be used improperly in any act of Parliament, and that the use of 'said' shall be wholly dropped?"

[The objection to the word "said" as used by educated draftsmen of the present day arises from pure ignorance. Horne Tooke rightly pointed out that the double reference to "him"—"the said" was a pleonasm, but in modern drafts this does not occur; and the reference to a previously indicated person or thing by the words "the said" is not only correct, but necessary to precision, and it is the shortest expression that can be used for the purpose. The legal use of the word "such" is no doubt a perversion, but it is so convenient, and stands in the place of such awkward circumlocutions, that the most determined jurists have been compelled to submit to the use of it. The fact is, that though lawyers very commonly set down a great deal more than is necessary, their language, like all other technical language, is more concise than that of unprofessional writers.]

CREDIBILITY OF WITNESSES.

The following sensible letter on this subject lately appeared in the *Times*:—

Sir,—On the trial of Dedea Redanies for murder, reported in the *Times* of the 20th December last, I find the following circumstance occurred:—

"Thomas Girling was called into the witness-box, and he said, that before he was sworn he wished to state that he considered the administration of an oath was merely a civil ceremony.

"Mr. Baron Bramwell asked him whether he believed in a future state of rewards and punishments.

"Girling said he did not believe in a future state.

"Mr. Baron Bramwell said that he could not be sworn, and ordered him to leave the witness-box."

As this person was called on behalf of the prosecution, and the prisoner was found guilty without his testimony, it may be presumed that in this case the rule which led to his rejection had no important effect; but suppose he had been the sole witness to a fact which could establish the innocence of a man on trial for his life under circumstances of great suspicion!

Surely it is time that this matter should be set to rights. There is nothing new to be said about it in the way of argument; the only obstacle to the establishment of a rational practice is the general unwillingness to disturb the existing state of things in connexion with a question on which a great deal of prejudice exists.

Nobody pretends seriously to believe that a sceptic is incapable of telling the truth, or is in any appreciable degree less likely to tell the truth than another man. We all know the contrary, and make no such distinctions in our daily dealings with our neighbours. Besides, what can be more irrational than to deny credibility to a witness because he himself makes a statement which is credited, and the making of which, moreover, is a very strong proof of his regard for truth? He might have kept his scruples to himself, and taken the oath decorously, like anybody else; but because he is too honest to do this, he is declared so utterly incapable of truth that it is useless even to listen to him. Observe, too, what an easy escape this rule gives to an unwilling witness; he has only to declare that he does not believe in a future state, and the law cannot touch him.

Great advances have been made of late years towards the establishment of the true principle as to the admission of evidence—namely, that all witnesses ought to be listened to, and that it is for those who hear them to weigh the value of their testimony; and I hope it will not be long before good sense has another triumph in the abrogation of the present religious test.

I do not say that there may not be cases in which a jury may properly disregard the evidence of a professed sceptic; all I say is, that it is preposterous to refuse altogether to receive it, when a man may confess himself to be a poisoner, a swindler, a burglar, and yet be admissible as a witness.

In connexion with this subject, I may also refer to the extremely foolish way in which custom requires judges and magistrates to satisfy themselves of the capacity of children who are brought to give evidence. They are to examine whether the witness "understands the nature of an oath." If the child can repeat the Lord's Prayer, and can say that "naughty boys who tell lies will go to hell," (which I humbly hope is very far from true, as a universal proposition), he is a competent witness; if not, he is rejected. Nothing can be more fallacious than such a test. Like the rule against sceptics, it is based on the entirely false assumption that there is no moral sense independently of religion. The credibility of children should be ascertained precisely as that of adults is ascertained—namely, by observation of their demeanour, and the amount of intelligence and consistency which they display, aided, if necessary, by the testimony of others.

I do not want to see judicial oaths abolished, because I know that, in point of fact, they do secure veracity in many witnesses; still no divine or moralist can allege that an oath adds anything to the obligation to tell the truth, which is absolute without it; and if a witness either objects to be sworn, or says that he considers it superfluous, his testimony should just be taken all the same, without any further ado.

Jan. 1, 1857. B. R.

Upon this subject we extract the following observations from Best's Principles of Evidence, (p. 212):—

"Atheism and other forms of infidelity, which deny all exercise of divine power in rewarding truth and punishing falsehood, remain untouched by *Omychund* v. *Barker* and the above decisions, and are still recognised grounds of incompetency. But ought this to be maintained, at least so far as casual evidence is concerned? Is it wise to leave in the power of every man whose breast is the repository—perhaps the sole repository—of evidence affecting the lives and fortunes of his fellow-citizens, to stifle that evidence, by pretending to hold erroneous views on the subject of religion? And even supposing the atheism, epicureanism, &c. ever so unfeigned and genuine, is it not more properly an objection to the credit than to the competency of the witness? For it amounts simply to this—that out of four sanctions of truth, one has no influence on his mind. The only case, as has been well observed, in which 'cacotheism,' or bad religion, is a legitimate ground for the exclusion of testimony, is where a man belongs to a religion the god of which ordains perjury; and the fanatic, whose creed allows mendacity in private and false swearing in public, is more dangerous in the witness-box than any form of infidel that could present himself. Even atheism, as justly remarked by Lord Bacon, 'leaves a man to sense, to philosophy, to natural piety, to laws, to reputation, all which may be guides to an outward moral virtue, though religion were not; but superstition dismounts all these, and erecteth an absolute monarchy in the minds of men.' Experience has ever shewn, that while an enlightened sense of religion and faith in the attributes and government of God raise the standard of truth, and establish a love of it in the human mind, superstition and irreligion alike lower the one and extinguish the other. And whatever might have been formerly urged in favour of the exclusion in question, it seems inconsistent to retain it at the present day, since the 6 & 7 Vict. c. 22, has allowed the unsworn testimony to be received of the members of certain barbarous and uncivilised races in the British colonies, who are described in that statute (whether truly or not is immaterial to our present purpose) as 'destitute of the knowledge of God and of any religious belief.'"

The following note is subjoined to the above page:—"'Of all the religious codes known,' says Bentham, 'the Hindoo is the only one by which, in the very text of it, if correctly reported, a license is in any instance expressly given to false testimony delivered on a judicial occasion, or for a judicial purpose. . . . . . Cases, some extra-judicial, some judicial, and, upon the whole, in considerable variety, and to no inconsiderable extent, are specified, in which falsehood, false witness, false testimony, are expressly declared to be allowable:—1. False testimony of an exculpative tendency in behalf of a person accused of any offence punishable with death. Three cases, however, are excepted, viz. first, where the offence consists in the murder of a Brahmin; or, secondly, (what comes to the same thing), a cow; or, thirdly, in the drinking of wine, the offender being, in this latter case, of the Brahmin caste.' . . . . The other cases stand word for word as follows:—'If a marriage for any person may be obtained by false witness, such falsehood may be told as upon the day of celebrating the marriage; if on that day the marriage is liable to be incomplete for want of giving certain articles at that time, if three or four falsehoods be asserted, it does not signify; or if, on the day of marriage, a man promises to give his daughter many ornaments, and is not able to give them, such falsehoods as these, if told to promote a marriage, are allowable. If a man, by the impulse of lust, tells lies to a woman, or if his own life would otherwise be lost, or all the goods of his house spoiled, or if it is for the benefit of a Brahmin, in such affairs falsehood is allowable.' (5 Benth. Jud. Ev. 134). We have verified his reference for these extraordinary statements. The above passages will be found in the translation of Pootee., c. 3, s. 9, in Halhed's Code of Gentoo Laws. The lower order of Irish, although timorous of taking even true oaths in general, commonly consider perjury to save a criminal from capital punishment either as no crime at all, or at most a peccadillo. To these instances may be added the principle laid down by Mascardus relative to confessions to clergymen, who, not satisfied with contending that such confessions ought to be inviolable, goes on to say, that if the priest be examined as a witness to prove what was stated to him in confession, 'potest dicere se nihil scire ex eo quod illud quod scit, scit ut Deus; et ut Deus non producitur in testem sed ut homo et tanquam homo ignorat illud super quo producitur.' (Mascardus de Prob. Quæst. 5 NN. 50, 51; 1 Greenl. Evid., s. 247, 4th ed.)"

Court Papers.

EQUITY CAUSE LISTS, HILARY TERM, 1857.

*** The following abbreviations have been adopted to abridge the space the Cause Papers would otherwise have occupied:—*A.* Abated—*Adj.* Adjourned—*A. T.* After Term—*Ap.* Appeal—*C. D.* Cause Day—*Cl.* Claim—*C.* Costs—*D.* Demurrer—*E.* Exceptions—*F. D.* Further Directions—*M.* Motion—*P. C.* Pro Confesso—*Pl.* Plea—*Ptn.* Petition—*R.* Rehearing—*S. O.* Stand Over—*Sh.* Short.

Before the LORD CHANCELLOR.

APPEALS.

Elliott *v.* Ince }
Elliott *v.* Ince }
Penny *v.* Allen
Davis *v.* Chambers
In re William Thomas }
Langley *v.* Thomas }
Archer *v.* Harrison
Osborne *v.* Jullien.

Before the LORDS JUSTICES.

APPEALS.

Liddiard *v.* De Ratzen
Clegg *v.* Edmondson, *Jan.* 20
Clegg *v.* Edmondson, *Jan.* 20
Gray *v.* Addison, *After Term*
Hopwood *v.* Hopwood (Postponed at request of parties)
Parr *v.* Jewell (Part heard)
Wolley *v.* Jenkins
Coore *v.* Todd
Farebrother *v.* Wodehouse
Manser *v.* Dix
Eaton *v.* Hazell (2)
Stephens *v.* Powys
Crook *v.* Whitley

CAUSES.

Clegg *v.* Edmondson (Cause) *Jan.* 20
Strange *v.* Hawkes (F D, C, 4 Ptns, part heard)
Corley *v.* Lord Stafford (Cl)
Campbell *v.* Corley (Cause).

Before the Right Hon. the MASTER OF THE ROLLS.

CAUSES, &c.

Johnson *v.* Atkinson (E to answer)
Crowther *v.* Crowther (D)
Cochrane *v.* Beaumont (M for decree)
Green *v.* Long (Further cons.)
In re Brewer's Estate } (Fur.
Brewer *v.* Pocock } cons.)
Palmer *v.* Ward (Further consideration, Summons)
Timewell *v.* Browne (Further consideration, Ptn)
Official Manager of the Royal Bank of Australia *v.* Pryme (M for decree)
Edwards *v.* Ryder (M for dec.)
Cunliffe *v.* Hall (4) (F D, C)
Chichester *v.* Chichester (M for decree)
Holl *v.* Gordon (2) (E, F D, C)
Gordon *v.* Low (3) (F D, C)
Att.-Gen. *v.* Calvert (Cause)
Tweedale *v.* Tweedale (M for decree)
Tweedale *v.* Tweedale (M for decree)
Attorney-Gen. *v.* Wyggeston Hospital (2) (F D, C)
Reade *v.* Lowndes (M for decree)
Simpson *v.* North (M for dec.)
Irwin *v.* Hamer (Cause)
Smedley *v.* Varley (M for decree)
May *v.* Biggenden (4) (Further consideration)
Sanderson *v.* Birkett (Further consideration)
James *v.* Homes (Cause)
Stainton *v.* Carron Co. (M for decree)
Lakeman *v.* Agua Fria Gold Mining Co. (M for decree)
Lyon *v.* Lumley (Cause)
Earl Lanesborough *v.* Moore (M for decree)
Palmer *v.* Brian (Cl)
Newbegin *v.* Bell (Further consideration)
Green *v.* Nixon (M for decree)
Attorney-Gen. *v.* Mayor, &c. of London (Cause)
Attorney-Gen. *v.* Mansfield School (F D, C, 2 Ptns)
Graham *v.* Lee (M for decree)
Hart *v.* Horner (M for decree)
Spencer *v.* Pearson (M for decree)
Stanley *v.* Jackman (Cause)
Jonassohn *v.* Shaw (M for decree)
Douglass *v.* Archbutt (Cause)
Baxter *v.* Baxter (Further consideration)
Knight *v.* Pocock (M for dec.)
Brocass *v.* Lloyd (Cause)
Burrow *v.* Moore (Cause)
Cowell *v.* Gatcombe (M for decree)
Rawlings *v.* Pearson (M for decree)
Rawlings *v.* Rawlings (2) (Cause)
Rawlings *v.* Bluett (Cause)
Gibson *v.* Garnett (Cause)
Wilkinson *v.* Duncan (M for decree)
Hoskins *v.* Manley (Cause)
Jones *v.* Kilburn (M for dec.)
Elliott *v.* Wilson (M for dec.)
Stephens *v.* Stone (M for dec.)
Preston *v.* Preston (Further consideration)
Dugard *v.* Rea (Cause)
Anderson *v.* Anderson (M for decree)

- Pooley *v.* Warwick (M for decree)
- Healey *v.* M'Murray (M for decree)
- Gorbell *v.* Davison (3) (Further consideration)
- Gully *v.* Cregoe (M for decree)
- Wing *v.* Roof (Cl)
- Ellis *v.* Baker (M for decree)
- Faulkner *v.* Jeffery (Further consideration, M)
- Knight *v.* Knight (M for dec.)
- Chambers *v.* Elliott (Further consideration)
- Biron *v.* Mount (Cause) *Sh*
- Blagrove *v.* Coore (Further consideration)
- Hanbury *v.* Stickney (Cl)
- Hobman *v.* Clarke (Further consideration)
- Meredith *v.* Vick (Further consideration)
- Chester *v.* Urwick (Further consideration)
- In re Reeve }
- Moxon *v.* Reeve } (Further considerat.)
- Fuller *v.* Green (F D, C)
- Maxwell *v.* Port Tennant Patent Steam Fuel and Coal Co. (Cause)
- Burnaby *v.* Cooper (M for decree)
- Pollard *v.* Pollard (Further consideration)
- Tracey *v.* Brainbridge (Further consideration)
- Rayner *v.* Tate (M for decree)
- Fyfe *v.* Arbuthnot (M for decree)
- Baker *v.* Ellis (M for decree)
- Harris *v.* Whitaker (Cause) *Sh*
- Anderson *v.* Abbot (M for decree)
- Moffett *v.* Bates (M for decree)
- Jones *v.* Thompson (M for decree)
- Regent's Canal Co. *v.* Ware (M for decree)
- Hodgson *v.* Hartley (M for decree)
- Morrell *v.* Butterfield (M for decree)
- Ward *v.* May (M for decree)
- Chorley *v.* Bellett (M for dec.)

Before Vice-Chancellor Sir Richard T. Kindersley.

Causes, &c.

- Champneys *v.* Buchan (Cause, part heard)
- Leggo *v.* Richards (E to ans.)
- Potter *v.* Parry (Cl)
- Ashcroft *v.* Powell }
- Ashcroft *v.* Powell } (Further consid.)
- Taylor *v.* Coates (Cause)
- Fenton *v.* Clayton }
- Fenton *v.* Clark } (Further consid.)
- Roberts *v.* Snead }
- Roberts *v.* Lewis } (F D, C)
- Buckeridge *v.* Whalley }
- Buckeridge *v.* Whalley } (Ca.)
- Lee *v.* Lee (6) (F D, C)
- Lee *v.* Lee (6) (F D, C)
- Nokes *v.* Gibbon (Cause)
- Ewart *v.* Williams }
- Williams *v.* Ewart } (E)
- Dickenson *v.* Wolferstan (F D, C, Ptn, part heard)
- Hue *v.* French }
- French *v.* French } (Further consider.)
- Caddick *v.* Skidmore (Cause)
- Perfect *v.* Stockwell (M for decree)
- Moore *v.* Morris (M for dec.)
- Saunders *v.* Saunders (Cause)
- Whatley *v.* Matthews (Further consideration)
- In re Mellersh }
- Stillwell *v.* Mellersh } (Summ. to vary certific.) }
- Stillwell *v.* Mellersh (Cau.) }
- Duffort *v.* Arrowsmith (M for decree)
- Lilley *v.* Medlycott }
- Lilley *v.* Lilley } (F D, C)
- Brandon *v.* Brandon (12) (F D, C, 4 Ptns)
- Cannock *v.* Jauncey (Cause) }
- Cannock *v.* Higgins (M for decree) }
- Watson *v.* Hanbury }
- Watts *v.* Hanbury } (F D, C)
- Boddington *v.* Boddington (Further consideration).

Before Vice-Chancellor Sir J. Stuart.

Causes, &c.

- Bates *v.* Christ College, Cambridge (E to answer)
- Sadler *v.* Mayhew (E to ans.)
- Barclay *v.* Pead (Pl)
- Snow *v.* Dun (F D, C)
- Simpson *v.* Chapman (Further consideration, M) *After T.*
- Jones *v.* Jones (M for decree)
- Perens *v.* Johnson (Cause)
- Sayers *v.* Gardner (Cause)
- Dean *v.* Hall (6) (F D, C)
- Booth *v.* Coulton (Further consideration)
- Harries *v.* Vaughan (Cause) *Jan.* 19
- Stevens *v.* Jardine (M for dec.)
- Kiddill *v.* Farnell (M for decree)
- Oxenden *v.* Oxenden (Further consideration) *Sh*
- M'Intosh *v.* Great Western Railway Co. (Cause)
- Wyllie *v.* Green (Further consideration)
- Fall *v.* Elkins (Cl)
- Jones *v.* Jones (Cause)
- De Murietta *v.* De Murietta (M for decree)
- Barber *v.* Jones (M for decree)
- Forster *v.* Blast (Cl)
- In re Meacock }
- Denton *v.* Stansfield } (Adjd. sums. & cause)
- Stansfield *v.* Denton }
- Palmer *v.* Dugard (M for dec.)
- Plommer *v.* Drayson (M for decree)
- Cochrane *v.* Phillips (Cause)
- Ashton *v.* Wood (Further consideration)
- Shuttleworth *v.* Coote (Cl)
- Hayes *v.* Brien (M for decree)
- Crompton *v.* Emery (M for decree)
- Armytage *v.* Law (Cause)
- Hirtzell *v.* Mules (M for dec.)
- Russell *v.* Green (Cause)
- King *v.* Roe (Further cons.)
- In re Mutter }
- Mutter *v.* Hudson } (Further consideration)
- Hurford *v.* Hudson }
- Bullocke *v.* Crow (2) (Cause)
- Greenwood *v.* Greenwood (Cause)
- Grundy *v.* Horrox (M for dec.)
- Potter *v.* Phillips (Further consideration)
- Holcombe *v.* Hoskins (M for decree)
- Prothero *v.* Phelps (Further consideration)
- Pain *v.* Coombs (M for dec.)
- Leyland *v.* Illingworth (M for decree)
- Jowett *v.* Bentley (Cause)
- Nunn *v.* Edge (Cause)
- Wood *v.* Fletcher (Cause)
- Kay *v.* Crook (4) (Cause)
- Hopcraft *v.* Brooke (M for decree)
- Brown *v.* Foster (F D, C)
- Roderick *v.* Brandon (Further consideration)
- Beswicke *v.* Beswicke (F D, C)
- Robson *v.* Earl of Devon (Ca.)
- Horne *v.* Warr (Further consideration)
- Mason *v.* Sherwood (M for decree)
- Johnson *v.* Perrens (Cross cause)
- Jackson *v.* Deffell (5) (F D, C)
- Seaman *v.* Rackham (3) (F D, C)
- Lewis *v.* Thomas (Cause)
- Smith *v.* Lakeman (Further consideration)
- Liddiard *v.* De Rutzen (Cause)
- In re Arbouin }
- Arbouin *v.* Arbouin } (Further consid.)
- Newell *v.* Fleetwood (M for decree)
- Cholmeley *v.* Cholmeley (M for decree)
- Cholmeley *v.* Cholmeley (M for decree)
- Devoy *v.* Devoy (M for dec.)
- Tucker *v.* Billing (Further consideration)
- Conduitt *v.* Foxhall (Cause)
- Neale *v.* Smith (M for decree)
- Thackwell *v.* Masefield (M for decree)
- Nettlefold *v.* Warren (M for decree)
- Lett *v.* Crystal Palace Co. (Cause).

Before Vice-Chancellor Sir W. P. Wood.

Causes, &c.

- Bayley *v.* Hand (E to answer)
- Kennard *v.* Westrup (Cause)
- Clarke *v.* Ronald (Cause) *Easter Term*
- Janes *v.* Page }
- Mingay *v.* Page } (Cause)
- Nicholls *v.* Haviland (M for decree) }
- Haviland *v.* Haviland (Further consideration) }
- Fraser *v.* Kershaw (M for dec.)
- Beck *v.* Kantorowicz (M for decree)
- Nott *v.* Thomas (M for dec.)
- Benyon *v.* Simpson (M for decree)
- Barwell *v.* Bickingsale (M for decree) *Jan.* 30
- Taylar *v.* Millington (M for de.)
- Muskett *v.* Muskett (Cause)
- Mornington *v.* Keane (Cause)
- Todd *v.* Studholme (Cause)
- Dewsbury *v.* Dewsbury (Cau.) *Jan.* 21
- M'Laren *v.* Baines (Sp. case)
- Freeth *v.* Freeth (M for dec.)
- In re Holmes }
- Holmes *v.* Holmes } (Further con., Ca.)
- Smith *v.* Harrison (M for dec.)
- Smith *v.* Long (M for decree)
- Moyle *v.* Rogers (M for dec.)
- Cox *v.* Cox (Cause)
- Houchin *v.* Gallaway (Cause)
- Manby *v.* Bewicke (Cause)
- Creswell *v.* Hankins (Cause)
- Cook *v.* Hudson (Cause)
- Lloyd *v.* Howell (Cause)
- Douglas *v.* London & North-western Railway Co. (Cl)
- Violett *v.* Brookman (M for decree)
- Smith *v.* Liddiard (M for dec.)
- Willson *v.* Williams (Cause) }
- Burton *v.* Powers (Sp. case) }
- Lonsdale *v.* Berchtoldt (2) (Further consideration)
- Gardner *v.* Anstin (M for decree)
- Lyle *v.* Earl of Yarborough (Cause)
- Read *v.* Learmount (M for decree)
- Kelsey *v.* Marchant (Cause)
- Harris *v.* Combe (M for dec.) }
- Welby *v.* Bowyer (M for dec.) }
- Manby *v.* Manby (Cause)
- Waller *v.* Holmes (Further consideration)
- Gardiner *v.* Tarrant (Further consideration)
- Bulkeley *v.* Mousley (Cause) }
- Kennard *v.* Westrup (Cause) }
- Timmis *v.* Sweetman (Cause)
- Cowley *v.* King (Cl) }
- Hope *v.* Potter (Special case) }
- Chatfield *v.* Berchtoldt (Further consideration)
- Carter *v.* Green (M for dec.) }
- Withey *v.* Crew (Further consideration) }
- Watson *v.* Murray }
- Watson *v.* Sturgis } (M for decree)
- Sheppard *v.* Oxenford (Cause, P C)
- Coles *v.* Courtenay (Further consideration)
- Walders *v.* Hyams (M for decree)
- Weston *v.* Collins (Cl) }
- Petty *v.* Cockerill (Further consideration) }
- Thompson *v.* Baxter (Cl)
- Wylde *v.* Murray }
- Sturgis *v.* Murray } (Cause)
- Mackerell *v.* Wolff (M for decree)
- Marchioness of Londonderry *v.* Bramwell (M for decree).

ROBERT HENRY BOLLIN, King's Lynn, Norfolk, carriage builder, Jan. 28 at 12, and March 2 at 1, London: Off. Ass. Nicholson; Sols. Goodwin & Co., King's Lynn, Norfolk, and 3, Lancaster-place, Strand, London.—Pet. f. Jan. 10.

GEORGE DAVEY, Murray-st., New North-road, plumber, Jan. 23 and Feb. 26 at 12, London: Off. Ass. Bell; Sols. Hudson & Francis, 10, Tokenhouse-yard.—Pet. f. Jan. 12.

GEORGE FEARIS, Lambeth-walk, draper, Jan. 23 at half-past 12, and Feb. 26 at 1, London: Off. Ass. Johnson; Sols. Mason & Sturt, Gresham-street.—Pet. f. Jan. 10.

HENRY OSBORN, Old Trinity House, Water-lane, City, and Great Windmill-street, Haymarket, wine merchant, Jan. 23 at 11, and Feb. 26 at 2, London: Off. Ass. Bell; Sol. Anderson, 10, Barge-yard-chambers.—Pet. f. Jan. 10.

WILLIAM T. GRAVENOR, Birmingham, hatter, Jan. 28 and Feb. 18 at half-past 10, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham; Morris, 6, Old Jewry, London.—Pet. d. Jan. 5.

SAMUEL BAYLEY, Wednesbury, Staffordshire, grazier, Jan. 28 and Feb. 18 at half-past 10, Birmingham: Off. Ass. Bittleston; Sol. Knight, Birmingham.—Pet. d. Jan. 5.

RICHARD DAVIS the elder, West Bromwich, Staffordshire, coal master, Jan. 24 and Feb. 14 at half-past 11, Birmingham: Off. Ass. Bittleston; Sol. Reece, Birmingham.—Pet. d. Jan. 12.

ALFRED HENRY HARROLD, Frome Selwood, Somersetshire, chemist, Jan. 26 and Feb. 23 at 11, Bristol: Off. Ass. Miller; Sol. Miller, Frome.—Pet. f. Jan. 12.

THOMAS HENRY TRIPNEY, Perranporth, Cornwall, woollendraper, Jan. 22 and Feb. 19 at 1, Exeter: Off. Ass. Hirtzel; Sols. Ford, Exeter; Goddard, 28, King-street, Cheapside.—Pet. f. Dec. 31.

RAMSDEN RAWNSLEY, Copley, Halifax, Yorkshire, builder, Feb. 2 and March 2 at 11, Leeds: Off. Ass. Hope; Sols. Mitchell, Halifax; Bond & Barwick, Leeds.—Pet. d. and f. Jan. 12.

KNOWLTON WILSON, Sheffield, Yorkshire, surgeon, Jan. 31 and Feb. 21 at 10, Sheffield: Off. Ass. Brewin; Sols. Hoole & Yeomans, Sheffield.—Pet. d. Jan. 9; f. Jan. 10.

JOHN UNWIN, Seacombe, Cheshire, baker, Jan. 22 and Feb. 13 at 11, Liverpool: Off. Ass. Bird; Sols. Fletcher & Hull, Liverpool.—Pet. f. Jan. 7.

JAMES GRIFFIN, Liverpool, poulterer, Jan. 21 and Feb. 16 at 11, Liverpool: Off. Ass. Morgan; Sol. Yates, jun., Liverpool.—Pet. f. Jan. 2.

MEETINGS.

George Speight, Goswell-street, confectioner, Jan. 30 at 1, London, last ex.—*Henry Gander*, Catherine Wheel-yard, High-street, Borough, licensed victualler, Jan. 23 at half-past 11, London, last ex.—*George Winn*, Bottesford, Leicestershire, builder, Feb. 3 at half-past 10, Nottingham, last ex.—*Wm. Jones*, Broadway, Westminster, draper, Feb. 3 at 11, London, aud. ac.—*Benjamin Holmes* and *Charles John M. Lewis*, Birmingham, boot maker, Jan. 24 at half-past 11, Birmingham, aud. ac.—*Hugh Parker*, *Offley Shore*, *John Brewin*, and *John Rodgers*, Sheffield, Yorkshire, bankers, Jan. 24 at 10, Sheffield, aud. ac.—*Charles Bassett Roe* and *Thomas John Blackford*, Newport, Isle of Wight, Southampton, bankers, Feb. 4 at 11, London, div. joint and sep. ests.—*Charles Ackroyd* and *Wm. W. Rowles*, King-street, Long-acre, carpenters, Feb. 4 at half-past 11, London, div. joint est., and div. sep. est. of *Charles Ackroyd*.—*George F. Owen*, Lewisham, Kent, butcher, Feb. 6 at 12, London, div.—*Auguste Silvestre*, Argyll-street, Regent-street, importer of fancy goods, Feb. 6 at 12, London, div.—*Henry Houghton*, Friday-street and Watling-street, City, merchant, Feb. 6 at 12, London, div.—*Henry F. Budge*, Manchester, fustian manufacturer, Jan. 28 at 12, Manchester, aud. ac.; Feb. 4 at 12, div.—*J. Travis*, Newchurch, Lancashire, woollen manufacturer, Feb. 5 at 12, Manchester, div.—*James Evans* and *George Davey*, Britton Ferry Ironworks, Glamorganshire, ironmasters, Feb. 5 at 11, Bristol, div. sep. est. of *James Evans*.—*George A. Voigt*, Cheltenham, dealer in pianofortes, Feb. 12 at 11, Bristol, div.—*Wm. R. Lowe*, Wolverhampton, Staffordshire, manufacturing chemist, Feb. 5 at 11, Birmingham, div.—*Edward R. Sanderson*, West Kinnald Ferry, Lincolnshire, seed crusher, Feb. 4 at 12, Kingston-upon-Hull, div.

CERTIFICATES.

To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.

Joseph Francis King, Belle Vue-villas, Seven Sisters-road, Holloway, builder, Feb. 6 at 11, London.—*Michael Willis*, Shot Tower Wharf, Lambeth, firewood manufacturer, Feb. 4 at 1, London.—*Joseph C. Cooke*, Princes-street, Soho, carver, Feb. 4 at half-past 12, London.—*Wm. Fevre*, Peterborough, Northamptonshire, publican, Feb. 5 at 2, London.—*James Symes*, *Edward B. Symes*, and *Reuben Raper*, Strand, electro platers, Feb. 3 at 12, London.—*Wm. Briscoe*, Ashton-under-Lyne, timber dealer, Feb. 6 at 12, Manchester.—*S. Lord* and *E. Lord*, Bacup, Lancashire, millwrights, Feb. 4 at 12, Manchester.—*Robert Helsby* and *Joseph Helsby*, Garston, Childwall, and Warrington, Lancashire, builders, Feb. 5 at 12, Liverpool.—*Edwin J. Hodder*, Birmingham, grocer, Feb. 9 at half-past 10, Birmingham.—*Wm. John Pepper*, Coventry, printer, Feb. 9 at half-past 10, Birmingham.—*T. Firmston*, Shrewsbury, builder, Feb. 5 at 10, Birmingham.—*Robert Marston* and *George Marston*, Leicester, manufacturers of hosiery, March 3 at half-past 10, Nottingham.

To be granted, unless an Appeal be duly entered.

Benjamin S. Deeley, Buckley-street, Whitechapel, engineer.—*George Robinson*, Wellington-terrace, Clapham-rise, bookseller.—*Richard Birchall* the younger, St. Helens, Lancashire, ironmonger.

PARTNERSHIPS DISSOLVED.

Charles Bailey and *James Wickham*, Winchester, solicitors.—*J. L. Foster* and *S. Arbouin*, Hertford, and Mark-lane, London, attornies and solicitors.

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Printed by HENRY HANSARD, at his Printing Office, in Parker Street, in the Parish of St. Giles-in-the-Fields, in the County of Middlesex; and Published at No. 3, CHANCERY LANE, in the Parish of St. Dunstan in the West, in the City of London, by HENRY SWEET, residing at No. 34, Porchester Terrace, Bayswater, in the County of Middlesex.—Saturday, January 17, 1857.

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THE JURIST.

LONDON, JANUARY 24, 1857.

WE have received several communications on the subject of the Joint-stock Companies Act, upon which we desire to say a few words. With regard to two of them, viz. those of "Inquirer" and "Fair Play," the latter writer makes some complaints of the tone of criticism adopted by this journal, but the specific subjects of his complaint are the positions put forward by the former; and therefore we suppose that his general complaints are referable to the same source. As to those positions we give no opinion, but leave our readers to draw their own conclusions upon the points started; but so far as "Fair Play" means to complain of our articles, we beg leave to say that we have nothing whatever to do with the framers or promoters of this act, but only with the act itself; and we are quite sure that Mr. Thring would be the last person to suppose that those articles were written with any intention to injure him, or to give him any cause of offence. The history of the act is sufficient to shew that the draftsman cannot be responsible for its blunders, if blunders there be; for after much discussion, some amendments, and still more suggested, the act was entirely recast, and therefore it could not possibly be the work of one mind; and many of the difficulties arising from the altered state of the act might fairly escape observation. But the subject of our complaint is this—that when the Legislature proposed to pass an act professing to be a code in itself, a summary of the statute law on a subject of the greatest possible importance to the commercial world, and to remove difficulties and impediments to trade, it performed its task in so inefficient a manner as to raise a multitude of doubts, which will in all probability give rise to painful litigation. The first requisite in a statute on the subject of commercial law is that it should be clear; it had better be unsound than obscure; for in the former case either commercial practice accommodates itself to the bad legislation, and so removes the difficulty, or the impossibility of carrying out the law soon makes itself apparent, and a repeal takes place; but in the latter, where the law is like a many-headed sphinx, giving a different answer to each application, each man thinks that he has solved the riddle, and so rests content until experience teaches him that there is even yet another, and that a fatal answer.

We have also been favoured with a communication from a correspondent "H.," suggesting several doubts which have arisen in practice, upon each of which we will offer to our readers a few observations. The first doubt is, whether a trading company desiring to hold land must obtain a license in mortmain. Now, with reference to conveyances to corporations, it never was the law that they were void, but only voidable, at the option of the lord and of the Crown; and if those entitled to claim did anything which amounted to a waiver of their respective rights, the corporation remained unmolested. Then the rights of the lord became difficult to trace, and practically the license of the Crown became sufficient to confirm the property in the corporation, although in strictness it did not take away the right of the mesne lord to enter. Then came the 7 & 8 Will. 3, c. 37, by which power was given to the Crown to license corporations to take and to hold lands at its discretion. By the 1st section the Crown may grant to any person or persons, bodies politic or corporate, their heirs and successors, license to alien in mortmain, and also to purchase, acquire, take, and hold in mortmain, in perpetuity or otherwise, any lands, tenements, rents, or hereditaments whatsoever, of whomsoever the same shall be holden. By the 2nd section lands so aliened are not subject to forfeiture.

In modern acts of Parliament establishing corporations power is usually given to hold lands without any such license, as in the case of the Act for the further Amendment of the Church Building Acts, (3 & 4 Vict. c. 22). Again: in the case of a private act of Parliament, establishing a particular company, as a banking or other trading corporation, a clause is usually inserted giving the company power to hold lands, and it has always been considered that that dispenses with the necessity for any license, or, at any rate, that such license is to be implied from the assent of the Crown to the passing of the act. The effect of this is, that such a company holds its lands by the provisions of the statute, and not by the license of the Crown; and it is submitted that the whole course of modern legislation with respect to commercial companies shews a tendency to dispense with that license; and if we now turn to the old Joint-stock Companies Act, and see the provision made under similar circumstances, and the interpretation put upon it, we shall be able to form some idea of what would primâ facie be likely to be enacted. The old statute, among other powers given to companies by the 25th section, enabled them to purchase and hold lands, either in their own name or that of their trustees, for the purpose of occupying the same as a place of business, and also (but with a license, general or special, first obtained from the Board of Trade) as the nature of the company's business might require. Doubts arose as to the meaning of that provision, to remedy which stat. 10 & 11 Vict. c. 78, was passed, by which it was enacted that the Board of Trade might, in their discretion, grant to any company completely registered authority to acquire, dispose of, and again acquire such lands as the company might from time to time desire; and the 1st section says, "such license shall be held to confer on such company the rights and powers therein expressed to be given in respect of purchasing, holding, and disposing of lands." Now, although this act recites the doubts which existed as to the provisions of the former one, it does not at all suggest that there was any necessity for a license in mortmain, nor does it provide against such necessity, and we may therefore fairly assume that it was not supposed to exist, otherwise a statute which professed to clear up doubts on the point, and to give the fullest power of licensing to the Board of Trade, would have also clearly declared the law upon this head. It is, therefore, conclusive that the power contained in stat. 7 & 8 Vict. c. 110, s. 25, is a power to hold lands without a license in mortmain, and we should not expect that the new act would be likely to re-impose a necessity for that license.

We will now turn to the provisions of the new act upon the subject; and having formed some opinion as to what the Legislature would be likely to enact, we shall be in a fit position to construe what it has enacted. We must always bear in mind that there is nothing to prevent a corporation from holding land except the law of mortmain; and that upon a gift of lands to a corporation the lands vest in it, and then the Crown, by virtue of that law, comes in and seizes them. When, therefore, the Legislature gives to a corporation power to hold lands, it in effect says, "We dispense pro tanto with the law of mortmain." The 13th section then says that the effect of registration under the act shall be to make the company a body corporate, with power to hold lands. The companies to be registered under this act are of two kinds—those established for any lawful purpose, and others for the purpose of gain; (sects. 3 and 4); and the statute prohibits the former (sect. 38) from holding more than two acres of land without the sanction of the Board of Trade, which may, however, empower them to hold any quantity; but there is no such prohibition applicable to commercial companies. Now, if our observations on the old act be well founded, it can hardly be contended that it is necessary to have the license of the Crown as well as that of the Board of Trade; and it is submitted that the fair inference is, that where the latter is not required, the former is dispensed with. The argument seems to stand thus—the old act says no companies shall hold land without a certain permission, which the Crown hereby delegates to the Board of Trade. The new act says that that shall be the case with non-commercial companies, but with respect to commercial ones it entirely dispenses with the necessity for such permission; and therefore, by implication, when it says that they shall have power to hold lands, it means that they shall hold them unfettered by those restrictions for which the consent of the Board of Trade is substituted. If that be not so, the effect would be to place the one class of companies, to which the objections provided for by the laws of mortmain are not applicable, in a worse position in this respect than the other class to which such objections are applicable, and to adopt a restrictive legislation in a matter where we have every reason to expect that it would be progressive. We cannot, therefore, doubt but that the meaning of the Legislature in this act, in giving to commercial companies power to hold lands, is the same as it has been in all other modern instances of like legislation, where such power has been given and such terms have been employed, viz. that they should hold them without any license from the Crown.

The next question is, whether the transfer of shares must be by *deed?* Our readers are of course aware of the discussions which have arisen from time to time as to the nature of the interest possessed by the holders of shares in mining and other companies possessing land, and as to whether they constitute an interest in land. Upon this point the statute has adopted the rule of the Companies Clauses Act, that under no circumstances shall they be considered as real estate, (sect. 15); neither are they "goods, chattels, or merchandises," within the meaning of the 17th section of the Statute of Frauds, but mere choses in action incapable of delivery, (*Humble* v. *Mitchell*, 11 Ad. & El. 205); and therefore there is nothing in the general law to invalidate a parol contract for the sale of them, and we must look to the particular provisions of the act, and see how far it makes a difference in this respect. Now, it does not expressly require such contract to be by deed, nor does it, we think, by implication; but the 20th section requires the transfer to be in a certain form given in the schedule, and executed by the transferor and the transferee. There is then nothing in that section to require it to be by deed, unless the word "executed" have that effect, which we think cannot be given to it. Then, if we may look at the form in the schedule, we find the usual form which has been adopted in many similar acts, or substantially the same, with this exception, that it concludes "as witness our hands," and does not add, as usual, "and seals." Now, although there may be a difficulty in giving much weight to the forms in the schedule, inasmuch as they are liable to be altered by the Board of Trade in its discretion, (sect. 58), still this may be taken as an explanation of the meaning of the word "execute" in the section, and as shewing that it does not require a deed.

We have given so much space to the discussion of our correspondent's first query, and not so much from any substantial doubt upon the question, as from its practical and important nature, that we shall be obliged to defer to another article the discussion of the other three which remain unnoticed, and which may properly form the subject of a separate consideration.

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The meeting of merchants to discuss the legal and commercial bearings of *Kingsford* v. *Merry* took place on the 19th instant. It appears to have been conceded that the decision of the Court of Exchequer Chamber was right in point of law, and that the defendant had no chance of success by appeal to the House of Lords; but it was said that a portion of the mercantile community had been ignorant that such was the law, and at all events the law should be altered, so as to place delivery orders and dock warrants upon the same footing as bills of exchange, promissory notes, and bills of lading. By taking this course the meeting was enabled to consider the subject in a practical and useful manner, instead of raising the false issue which had been often suggested for its consideration in the city article of the *Times*. It is true, that the meeting was not unanimous as to the expediency of giving the proposed effect to dock warrants and delivery orders, and that one or two of its members made an attack upon judges for deciding according to the law instead of the wishes of commercial men. We are utterly at a loss to perceive any interest which lawyers can have in limiting the negotiability of mercantile documents, or any reason why there should be a "panic" among them on the subject. If it is considered expedient to unfetter these documents to the proposed extent, by all means let an act of Parliament be passed for the purpose, in like manner as the 3 & 4 Ann. c. 9, was enacted, for the enlarged transferability of promissory notes, when the merchants could not induce Lord Holt to adopt their views as the law of the land.

The following article, which appeared in the *Daily News* the day before the meeting, ably presents the popular view of the question:—

"The city is in a ferment. For weeks past a panic has been raging from Mincing-lane to Capel-court. The sages of Westminster Hall and the magnates of the Exchange are at loggerheads; and this very day a meeting is convened of our merchant princes, with the autocrat of European capitalists at their head, to make a solemn protest against a recent decision of the Court of Exchequer Chamber. The question raised in the now famous case of *Kingsford* v. *Merry*, though of course perplexed as much as possible by the lawyers, is in itself by no means complicated. It all turns on the legal effect of that very familiar mercantile instrument commonly known in the city as a '*delivery order*.' Substantially the problem is this—whether the assignment of a 'delivery order,' coupled with the possession of the goods to which it relates, to a dealer who has bonâ fide purchased or advanced money on them, does or does not vest in him the property in those goods, although the party assigning the order, and pledging or selling the goods, has fraudulently obtained possession of them from the original owner. In other words, is the bonâ fide holder for value of a 'delivery order' bound to make out a good title in the party from whom he takes it; or is it enough for such holder to shew, as in the case of a bank note, a bill of exchange, or a bill of lading, that he himself has bonâ fide given value for it? That is the real question raised by *Kingsford* v. *Merry*. The city says, that according to mercantile practice the latter of these two alternatives is the true doctrine; the Court of Exchequer Chamber holds the contrary. Is the Court of Exchequer Chamber right in point of law? That is one question—a question which can only be determined by an appeal to the House of Lords. Assuming that, in strict law, the Court of Exchequer Chamber is right, is the law itself right or wrong? That is another question—a question to be mainly decided by considerations of mercantile convenience. If the balance of convenience be against the rule of law, the course is plain. The matter must be settled by the Legislature, and a short declaratory act must be passed affirming the law in the sense of the mercantile community.

"We confess we can see no room for two opinions on the subject, when regarded as a question of practical convenience. On broad principles of common sense and common justice the case seems equally plain. A swindler obtains from a manufacturer the possession of goods, and of the 'delivery order' relating to them, by fraudulent misrepresentation: he goes to a dealer, who bonâ fide, and without knowledge of the fraud, advances to him a large sum of money on the assignment of the 'delivery order.' This, in substance, is the case of *Kingsford* v. *Merry*. In this transaction there are two innocent parties, one of whom, as it turns out, must be the sufferer. Which of the two is it to be? Clearly the party by whose act the mischief was occasioned—the manufacturer, who in fact, though not in intent, supplied the swindler with the means, the instrument, of procuring an advance from the dealer. Such is the dictate of natural equity. As to the argumentum ab inconvenienti, which, as the lawyers tell us, plurimum valet in lege, it is all the same way. These 'delivery orders,' 'wharfingers' receipts,' and 'dock warrants' have hitherto been regarded in the city as a species of negotiable instruments—as securities freely convertible into money by indorsement and delivery. Surely it would be an intolerable grievance if mercantile men, making advances upon such documents, or effecting purchases through their medium, should be compelled to trace a valid title through all their antecedent holders up to the original owner of the goods to which they relate. To hold this would be to impede the course of business, to arrest the development of legitimate speculation, and substitute the tedious minuteness of legal formalism for the brisk promptitude of commercial enterprise.

"The lawyers, indeed, contend—as we perceive by a reference to some of our legal contemporaries—that the merchants need not be alarmed at the decision in the Exchequer Chamber, because that decision has made no alteration in the law as it stood. It is on that very ground, we take it, that the apprehensions of the mercantile world are mainly founded. Their position we conceive to be this—either the decision of the Court of

Exchequer Chamber is a correct exposition of the law, or it is not. If it be not, it can be set right by the House of Lords; but if it be, steps must be taken to get the law altered as speedily as possible by the interposition of the Legislature. Which of these alternatives is the correct one is a question rather for the lawyers than for ourselves. It may be that in deciding a 'delivery order' not to be negotiable like a bill of exchange or a bill of lading, the Court of Exchequer Chamber, as our legal contemporary THE JURIST contends, has correctly laid down the strict legal doctrine on the subject. It may also be that they have merely shrunk from making a precedent where they did not find one, and have declined to pronounce 'delivery orders' negotiable instruments simply because they have never before had this effect given to them in our courts of law. Bills of exchange and bills of lading, we are told, 'are negotiable instruments by the *law merchant*.' But what, we should like to know, is the '*law merchant*,' except a collection of mercantile usages recognised by the judicature as having the force of law? Why should the mercantile usage, according to which 'delivery orders' have so long[*] been regarded in the city as negotiable, be entitled to less respect in Westminster Hall than the 'mercantile usage' which gives the same effect to 'bills of lading?' We shall be told, perhaps, that the usage in the latter case is of far greater antiquity than in the former. No doubt this is so; but if it be true, as we believe it is, that ever since 'delivery orders' have been known in commerce the custom in the city has uniformly been to treat them as negotiable, is it not absurd in our legal tribunals to refuse to recognise this custom, because the instrument to which it relates, and with which it is coeval, is itself of comparatively recent date? . . . . Let immediate steps be taken, by all means, for rectifying the law as laid down by the Exchequer Chamber, but let the meeting of to-day look further and aim higher. The important thing is not to encounter a legal blunder[†] with a commercial protest, but to organise an institution, by which men of business may permanently act on the law makers and the law administrators, so as to render such blunders less possible in the future. To neutralise the effect of such a decision as that of *Kingsford* v. *Merry* is no doubt a legitimate object for a great city gathering, but it would be a far more valuable result of the present agitation if it led to some plan for the immediate establishment of a Metropolitan Chamber of Commerce."

PUBLIC EXAMINATION OF STUDENTS.

AT the public examination of the Students of the Inns of Court, held at Lincoln's Inn Hall, on the 8th, 9th, and 10th January, 1857, the Council of Legal Education awarded to—

William Ritchie, Esq., student of the Middle Temple, a studentship of fifty guineas per annum, to continue for a period of three years:

George Alfred Marten, Esq., student of the Inner Temple, a certificate of honour of the first class:

Richard Copley Christie, Esq., student of Lincoln's Inn; John Edwards, Esq., student of Lincoln's Inn; and John Robbins, Esq., student of the Inner Temple, certificates that they have satisfactorily passed a public examination.

By order of the Council,
(Signed) RICHARD BETHELL, Chairman.
Council Chamber, Lincoln's Inn,
Jan. 15, 1857.

Correspondence.

TO THE EDITOR OF "THE JURIST."

SIR,—With respect to the remarks on the use of the words "said" and "same," commented on in your number of the 17th instant, it may add strength to your observations if I refer you to a passage in Co. Litt. 20. b., which will shew such words to have more significance than untechnical persons are aware of:—"If a man give lands 'to A. et hæredibus de corpore suo, the remainder to B. in formâ prædictâ,' this is a good estate tail to B., for that 'in formâ prædictâ' do include the other. If a man letteth lands to A. for life, 'the remainder to B. in taile, the remainder to C. in formâ prædictâ,' this remainder is void for the uncertaintie. But if the remainder had beene, 'the remainder to C. in eâdem formâ,' this had beene a good estate taile; for *idem* semper proximo antecedenti refertur."

While "said," therefore, is inappropriate where intended to refer to one of several antecedents, "same" is always appropriated to the last of them.

Jan. 20, 1857. LITERA.

[In the remarks to which this communication refers "jurists" was printed instead of "purists."]

EQUITABLE MORTGAGE:

WHETHER THE REMEDY IS SALE OR FORECLOSURE.

IT is proposed to shew that both upon principle and upon authority, a sale, and not a foreclosure, is the proper remedy, unless the equitable mortgage contains an agreement to make a legal mortgage.

Regarding the question first upon principle and independently of authority, it may be useful to consider on what ground a legal mortgagee is entitled to a foreclosure. The foundation of his remedy appears to be, that by the terms of his contract he has acquired an estate in the nature of a conditional fee, voidable or defeasible upon the performance of the condition, and absolute and indefeasible if the condition is broken; whilst the correlative equity of redemption, which is implied as a consequence of the contract from its very nature, is a right to have the time for the performance of the condition enlarged through a Court of equity, in order to save the forfeiture that would result from the form of the instrument of mortgage, and a right to be treated as owner of the estate in the meantime. If the condition is not performed within the extended period, or such other period as the Court, under special circumstances, considers reasonable, the mortgagee is left in possession of the estate he has contracted for, and the mortgagor is barred from the only relief which a Court of equity affords him, namely, to redeem the mortgage.

Where, however, a legal mortgage does not contain a condition for redemption, and the fee is conveyed to the mortgagee upon trust, as in *Sampson* v. *Pattison*, (1 Hare, 533); *Jenkin* v. *Row*, (5 De G. & S. 107); and see also *Dyson* v. *Morris*, (1 Hare, 422), a foreclosure is not authorised, because there is no contract for the estate independently of a security, and consequently no forfeiture to be relieved against; and the default in payment gives the mortgagee a right to sell the estate, and the mortgagor a right to the surplus money after the discharge of the mortgage debt, by the express limitations of the instrument. It has, no doubt, been said that mortgages by way of trust are not, strictly speaking, mortgages at all, and some have gone so far as to doubt whether tacking would be allowed under them. But such securities are pledges of real property for money lent, and consequently mortgages; and it cannot be doubted that if they were framed in this mode, viz. "upon trust to reconvey on payment upon such a day, and in default upon trust for the mortgagee," the remedy would be a foreclosure. The interposition of a trust, therefore, will not deprive a mortgagee of that remedy. If it did there would be an end of the question, and a second mortgagee or an equitable mortgagee would never be entitled to foreclose. It is the absence of a contract for the estate in mortgages upon trust that precludes a foreclosure, which is a consequence of that contract.

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[*] Our respected contemporary may not be aware that so lately as the year 1817 a jury of the city of London, said by Lord Ellenborough, C. J., to have been "a most intelligent jury," expressly found, that a person having mere possession of a "delivery order" was not thereby armed with such indicia of property as to be enabled to deal with it to others as his own. (See *Boyson* v. *Coles*, 6 M. & S. 14).

[†] This is itself a blunder. The law was properly laid down in both courts; they differed only upon their view of the facts in the case.

It is apprehended that a mortgagee of a chose in action is entitled to that remedy upon the same or an analogous principle. (See *Dyson* v. *Morris*). This position, however, is not altogether free from doubt, for in *Slade* v. *Rigg* (3 Hare, 35) Sir J. Wigram, V. C., decreed a foreclosure, upon the ground, that had the bill been for redemption, and been dismissed, such dismissal would have amounted virtually to a foreclosure; and therefore he considered a foreclosure might be had in the first instance as a substantive remedy. *Slade* v. *Rigg* was followed by Sir G. J. Turner, V. C., in *Wayne* v. *Hanham*, (9 Hare, 62). The observation which occurs upon these cases is, that if they were rightly decided, *Sampson* v. *Pattison* and that class of cases are not law, for in them the very same reasons might be urged in favour of a foreclosure, and with equal force; and yet they decide that such is not the remedy under instruments so framed. It is submitted, therefore, that *Slade* v. *Rigg* and *Wayne* v. *Hanham* cannot be supported upon the principle just alluded to; but inasmuch as there was in each a condition for redemption, which after default gave the mortgagee an absolute right to the property, and such right a Court of equity enforces under the head of foreclosure, it is apprehended that the decrees were correct in form, upon the principle now contended for.

In the case of a contract to make a mortgage, which is the intermediate step between a legal mortgage and an equitable one, the mortgagee is entitled to a legal mortgage, a foreclosure, or a sale: a legal mortgage, because that is the express contract, and the relief is specific performance; a foreclosure, because a legal mortgage would, if executed, have authorised it, and such relief is founded upon a well-known equitable maxim; and a sale, according to the practice of the Court of equity, which enforces a charge by such means.

Then, as to a mortgage purely equitable, whether evidenced by writing, or resting only on deposit, there being no express contract to pass the estate, (upon which, in the cases of legal mortgages, instruments framed after the model of legal mortgages, and contracts for mortgages, the right to a foreclosure depends), it follows that the right, if it exist, must rest upon an implied contract.

That this must be so is evident from the nature of the transaction. The deposit of the title deeds as a security constitutes a pledge at common law, and confers on the pledgee a good title to retain them against all the world until his demand is satisfied. (See *Keys* v. *Williams*, 3 Y. & C. 55). It, however, gives no right to the estate; but this equity supplies, by treating the deposit of the deeds as a symbolical delivery of the estate in security.

Now, in order that such a right should be implied, it should exist as an original remedy of the Court of equity. If it does, it is not derived from the civil law, from which most of the equitable doctrines respecting mortgages were taken, for according to that law a sale was the ordinary remedy, and a foreclosure could not in general be obtained unless a sale could not be effected. (See 2 Story's Eq. Jur., s. 1008). It has been shewn that in legal mortgages falling within the principle of *Sampson* v. *Pattison* a Court of equity will not imply any such right, which, if foreclosure were an original independent remedy, it ought to do; and that in contracts for mortgages there is an equitable remedy by a sale, independent of the rights founded upon the legal contract, and that such remedy is a sale; and the inference is, that foreclosure is a legal remedy, or, in other words, a remedy founded on legal principles, and a sale a remedy altogether founded on equitable principles.

Again: foreclosure is forfeiture. The implied right must be grounded upon an implied forfeiture. Now, forfeiture is not an equitable doctrine, it being a rule in equity that a forfeiture will not be enforced, much less implied: forfeiture, too, arising under a contract, which in a court of equity is viewed as a security for money, and in a court of law as an estate:—so much an estate at law, that a Court of law will not imply a covenant for payment of the mortgage money, and the relationship of debtor and creditor will not necessarily be implied from that of mortgagor and mortgagee, (see *Yates* v. *Aston*, 3 Q. B. 182):—so much a security merely in equity, that a Court of equity will declare void any restriction on the right to redeem the mortgaged property.

Again: the only essentials to an equitable mortgage by deposit are the deposit itself and the debt or sum to be secured. Now, the foundation of an equitable mortgage is, that it is an executed contract, and therefore not within the Statute of Frauds; and a Court of equity is to be guided, in administering relief under an equitable mortgage, by the same rules as under a legal one. It must, therefore, be held, that where, as is usually the case, the deposit is general, without naming any time for repayment of the money, the mortgagor has the whole period of his life to perform the implied condition; because, under similar circumstances, a legal mortgagee would have the same period to perform the express condition; (see Co. Litt. 208. b.); and an equitable mortgage cannot be put upon higher ground than a contract for a mortgage. See Lord Lyndhurst's decision in *Teulon* v. *Curtis*, (1 Younge, 610), where, in order to avoid the consequences, he held the instrument to be a Welsh mortgage, which, as Lord St. Leonards has shewn in *Balfe* v. *Lord*, (2 Dru. & W. 486), was a mistake. If, therefore, foreclosure were the remedy, it would, until very recently, have been to the exclusion of a sale, and in the great majority of cases the right to foreclose would have been postponed till after the death of the mortgagor.

In the cases of a mortgage and a contract for mortgage equity follows the law; but there does not appear to be any analogy between those cases and an equitable mortgage, the action of the Court of Chancery being diametrically opposed. In the former the Court leaves or puts the mortgagee in possession of the estate he has contracted for, and in the latter makes the estate available for payment of the debt. A legal mortgagee, except under peculiar circumstances, was not, until very recently, entitled to a sale, because he had not contracted for that remedy, and the aid of the Court was only afforded him to enforce his legal right to the estate; and as the law ignored, after condition broken, the fact that a mortgage was intended as a security, it followed, that a sale of the estate, and payment out of the proceeds, which are the necessary consequences of the equitable doctrine, that a mortgage was *only* a security, were denied a legal mortgagee. On the other hand, an equitable mortgage being a contract for a security, and not for an estate, and a sale being the remedy by which all other charges are enforced in a court of equity, it seems to follow almost necessarily, that in decreeing a foreclosure in the first instance, a Court of equity would be enforcing either a different contract from that which, according to the principles of the Court, it must hold that the parties have entered into, or else a contract in a different mode from that by which all other equitable contracts are enforced.

Having endeavoured to shew that upon principle a sale, and not a foreclosure, is the proper remedy in the case of a purely equitable mortgage, it remains only to establish the same point upon authority.

The first case bearing upon the question is the well-known one of *Russel* v. *Russel*, (1 Bro. C. C. 269). It appears, from the decree in the report office, to have been a case of a deposit of a lease by a person who afterwards became bankrupt, with a parol agreement to execute an assignment when required. The bill prayed a sale of the leasehold estate, and Lord Loughborough said, that as it was a case of the delivery of the title to the plaintiff for a valuable consideration, the Court had nothing to do but to supply the legal informality. An issue was, however, directed, and the deposit being established by a verdict of a jury, Lord Thurlow subsequently decreed a sale according to the prayer.

Featherstone v. *Fenwick* and *Harford* v. *Carpenter*, mentioned in the note to the last case, were also cases of deposits of leases; and it appears from 2 Spence's Eq. Jur. 791, note (*c*), that in the former the decree was by consent, and the equitable mortgagee was ordered to be paid out of the proceeds of the property, it having been sold; and in the latter, an account of the rents and profits, and an absolute assignment, without any time to redeem, were decreed.

In *Birch* v. *Elames* (2 Anst. 431) the argument was, that a deposit was an equitable mortgage only when accompanied by an agreement to perfect the conveyance afterwards; but Macdonald, C. B., in delivering the judgment of the Court, said, "The deposit of title deeds as security for a debt is now settled to be evidence of an agreement to make a mortgage;" and decreed a foreclosure.

In *Newton* v. *Aldous* (L. C., 18th July, 1804) the facts, as they appear in the decree at the report office, were special. The bill, however, stated that there was a simple deposit, and prayed a foreclosure; and the decree was, "Declare that the title deeds relating to the estate in question having been deposited in the hands of the plaintiff, the plaintiff is entitled to be considered in this court as if he was a mortgagee of the premises therein comprised, and decree the same accordingly; and in default of payment, &c., decree an absolute conveyance."

Lavender v. *Roberts* (Rolls, 28th June, 1806) followed *Newton* v. *Aldous* in point of form. The bill stated a deposit, with a parol agreement to make a legal mortgage, and prayed a foreclosure. The answer denied the agreement, and the decree was upon reading the proofs.

In *Meux* v. *Ferne*, (5th February, 1818), which was a case of a simple deposit, the bill stated that the security was scanty, prayed a sale, and was taken pro confesso.

Warner v. *Barling* (10th April, 1818) was against the administrator, widow, and heiress-at-law of the equitable mortgagor, and the bill prayed a foreclosure, or, in the alternative, a sale, as under an ordinary administration suit; and the decree was for a conveyance, with a reference also to the Master to take the usual accounts, and for the payment of debts in a due course of administration.

Smith v. *Nelson* (24th July, 1822) was against the executor of the equitable mortgagor by deposit of lease with a parol agreement to execute a legal mortgage. The mortgage had been prepared, but the mortgagor died before it was executed. The bill prayed a sale, and it was decreed.

In *Langdon* v. *Wilmot* (28th February, 1828) the estate was reversionary, and the bill was for a specific performance of a parol agreement for a sale obtained under pressure, or, in the alternative, for a legal mortgage; and the decree dismissed the bill, so far as it related to the agreement for sale, and was for a conveyance.

In *Hiern* v. *Mills* (13 Ves. 114) there was a parol agreement to make a mortgage, the draft of which had been approved by the mortgagor's solicitor, and the mortgagor had promised to call on the mortgagee and execute the ingrossment. The bill prayed a conveyance, and the decree was drawn up for a foreclosure as well as a conveyance.

Spring v. *Allen* (12th February, 1830) was against the heir, executor, and devisee of the equitable mortgagor, and the bill prayed a sale, which was decreed.

In *Monkhouse* v. *The Corporation of Bedford* (17 Ves. 380) a person who had paid off a mortgage upon property of the corporation deposited the mortgage deed with the plaintiff, and the bill prayed an assignment from the executor of the original mortgagee, and a foreclosure against the corporation. The contention on their part was, that the person who paid off the mortgage intended a gift to the corporation. They failed, and the decree was according to the prayer.

Most of the foregoing cases are taken from the registrar's books, and it does not appear that in any of them the question in dispute was argued. It is dangerous, therefore, to draw conclusions from them, because in some cases doubtless a mortgagor might prefer a foreclosure, and in others it might be quite immaterial whichever way the decree was drawn up. In *Russel* v. *Russel*, *Smith* v. *Nelson*, *Hiern* v. *Mills*, and probably *Lavender* v. *Roberts*, the mortgagee, as the law is now understood, would be entitled to a sale or foreclosure, at his option, there being in each an accompanying agreement to make a legal mortgage. In the two former a sale, and the two latter a foreclosure, was both prayed and decreed; and thus far the cases are pretty evenly balanced. With regard to *Featherstone* v. *Fenwick* and *Harford* v. *Carpenter*, relied upon by Lord Cottenham in *Parker* v. *Housefield* (infra) as authorities for a foreclosure, Mr. Spence's researches shew that Mr. Brown's note and Lord Eldon's recollection of these cases were inaccurate, and that no reliance at all can be placed upon them either one way or the other. *Newton* v. *Aldous*, *Langdon* v. *Wilmot*, and *Monkhouse* v. *The Corporation of Bedford* are simply instances in which decrees were drawn up for a foreclosure, the second in order being a case in which the main object of the suit failed, and the plaintiff took a decree founded upon a mortgage instead of a contract to purchase the estate; and in the last in order the contest was really whether the mortgage was subsisting. *Meux* v. *Ferne* and *Spring* v. *Allen* are instances of decrees for a sale, the one being an authority of the very slightest kind, being a bill taken pro confesso, and the other being a case in which it is doubtful whether the plaintiff would not be entitled to a sale on other grounds. In *Warner* (commonly called *Warren*) v. *Barling* the decree is clearly erroneous. (See the numerous cases in Set. Dec. 164, foreclosure and administration of assets in the same suit being incompatible remedies). *Birch* v. *Elames*, in the Exchequer, is certainly an authority in favour of foreclosure; but it would have been a sufficient answer to the defendant's argument that the deposit itself constituted the mortgage, and did not require anything further to perfect it; and its authority is very much impaired by being founded upon the supposed decisions of *Featherstone* v. *Fenwick* and *Harford* v. *Carpenter*; for *Russel* v. *Russel* can hardly be quoted as an authority for a foreclosure, seeing that the point decided by it was, that an equitable mortgage by deposit, being an executed and not an executory contract, was not within the Statute of Frauds, and that a sale was decreed, and not a foreclosure.

Ex parte Wright (19 Ves. 258) having been referred to by Lord Cottenham in *Parker* v. *Housefield* as an authority in favour of foreclosure, in these words—"In *Ex parte Wright*, Lord Eldon says that a deposit of title deeds was evidence of an agreement for a mortgage, and that an equitable title to a mortgage was in equity as good as a legal mortgage,"—it is proper to notice the case, as the quotation from it is calculated to mislead. It was a case of a petition in bankruptcy by an annuitant to prove in respect of the consideration for an annuity void for want of inrolment; and what Lord Eldon did say was, "This has been compared, and I have endeavoured ineffectually to follow that, *to a deposit of deeds until a mortgage*. In that case the deposit is evidence of an agreement for a mortgage," &c. Lord Eldon's opinion as to the nature and effect of an equitable mortgage by deposit may be gathered from *Ex parte Coming*, (9 Ves. 117), where he observes, that "previously to *Russel* v. *Russel* it was very much doubted whether a mere deposit constituted an equitable mortgage; but Lord Thurlow was of opinion, and that is not now to be disturbed, that the fact of the adverse possession of the deeds in the person claiming the lien, and out of the others, was a fact that entitled the Court to give *an interest*;" and from *Ex parte Wetherell*, (11 Ves. 401), in which is the following passage: —"The possession of the deed is, if no other purpose is shewn, evidence of an agreement that the *estate itself shall be a security*." It should be remarked that both these cases were upon petitions in bankruptcy, in which a long unbroken chain of decisions has established that a sale is the proper remedy. (See the note to *Ex parte Coming*). In the same case of *Parker* v. *Housefield* it is said that the decree in *Newton* v. *Aldous* was supposed to have been penned by Lord Eldon; but probably the supposition is grounded only upon the circumstance that the case is marked "L. C." in the registrar's book, and that Lord Eldon was then Chancellor. Be that, however, as it may, two points seem to be quite clear, namely, that Lord Eldon was aware of the distinction between an executory contract for a mortgage and an executed equitable mortgage by deposit, and that the precise question, whether the remedies under them were different, does not appear to have been raised in his time.

Pain v. *Smith* (2 My. & K. 417) is the first reported case in which there was a decree for a sale. The bill prayed an immediate sale, which was resisted on behalf of the defendant on the ground that all the plaintiff could claim was a legal mortgage, and supported on the ground that where there was no agreement for a legal mortgage, and the only evidence of contract was the deposit, the obvious inference was that the deposit was made as a pledge, not for a formal security, but for the payment of the money; and Sir J. Leach, M. R., said —"*If* the contract had been that the deeds should be deposited as a security until a legal mortgage could be prepared, there would be ground for the argument of the defendants; but there being here a general equitable charge upon the property, the plaintiff is entitled to a sale for satisfaction of that charge; and such has been the constant course of the Court, and the decree must be accordingly." In this case Sir J. Leach, though correct in the analogy between an equitable charge and an equitable mortgage, with regard to the remedy, forgot that redemption was incident to every mortgage, and the decree was drawn up for an immediate sale, and is therefore open to the observation made by the Vice-Chancellor of England in *Brocklehurst* v. *Jessop*, (infra), that it was incorrect; but he should have added, "in this respect."

In *Parker* v. *Housefield*, (2 My. & K. 419), decided about a year after *Pain* v. *Smith*, the decree had been drawn up by the registrar for a conveyance and foreclosure; but it was argued for the plaintiff, upon the authority of the last case, that he was entitled to an immediate sale; and Lord Cottenham, then Master of the Rolls, after time taken, said, "The question was, whether, in the case of an equitable mortgage by deposit of title deeds, the decree ought to give to the mortgagor six months to redeem, as in cases of legal mortgages. To determine this, it is material, in the first place, to consider in what light Courts of equity view such equitable mortgages; and it appears that a deposit of title deeds has always been considered as an imperfect mortgage, which the mortgagee is entitled to have perfected, or rather as a contract for a mortgage, which, according to the well-known doctrine of Courts of equity, would give to the party claiming the benefit of such contract all such rights as he would be entitled to if the contract had been completed." He then comments upon the cases in his own peculiar manner—that is to say, takes no notice of *Russel* v. *Russel* and *Pain* v. *Smith*, but cites *Featherstone* v. *Fenwick*, *Harford* v. *Carpenter*, and *Birch* v. *Elames*, and misquotes *Ex parte Wright*. He then proceeds—"Such being the light in which Courts of equity view equitable mortgages by deposit of title deeds, it would seem to follow that the remedy to be afforded to such mortgagees should as nearly as possible correspond with that to which legal mortgagees are entitled; and accordingly, from the search which I have directed to be made as to the form of decrees upon such subjects, I find that such has been the principle adopted." He then sets out the decree in *Newton* v. *Aldous*, which he said appeared to have been framed by Lord Eldon himself, and notices by name five of the other cases already referred to, and adds that the precedents were uniform in favour of six months' time to redeem being allowed, and orders the decree to be drawn up accordingly. Now, although the precise question was not before him, it is evident Lord Cottenham saw no distinction, in point of remedy, between a legal and an equitable mortgage; but it is equally evident that not long afterwards he changed his opinion, for in *Metcalfe* v. *The Archbishop of York* (1 My. & C. 557) he thus expresses himself—"It was then said for the defendants that all equitable charges rest upon specific performance and the right to have a legal charge. This is by no means so. The equitable incumbrancer has totally different remedies. What right has an equitable mortgagee by deposit to ask for a legal mortgage?" And again, in *Price* v. *Carver*, (3 My. & C. 160), where a decree had been drawn up against an infant for a conveyance, he added—"Whether this be the proper form of decree has not been argued before me, but the parties may probably be advised to consider whether a sale would not be the proper course." In short, *Parker* v. *Housefield* was a dictum supported only by *Birch* v. *Elames*, and opposed to subsequent dicta of the same judge.

The next case is *Brocklehurst* v. *Jessop*, (7 Sim. 438), in which *Pain* v. *Smith* and *Parker* v. *Housefield* were cited, and the precedents in the latter case, with the remaining ones before noticed, referred to; and the Vice-Chancellor of England said—"The decrees with which the registrar has furnished me shew that the decree in *Pain* v. *Smith* is manifestly wrong"—i. e. in decreeing an immediate sale. In *Moores* v. *Choat* (8 Sim. 513) the same learned judge observes, "that the depositary of a lease for securing a debt has a right to file a bill of foreclosure, and to have the lease assigned to him; or, if he has an agreement for a sale, he may file a bill for a specific performance." And in *Ball* v. *Harris*, (8 Sim. 485), "When a testator represents that he wants money for the purposes of a will, and deposits deeds for securing the money, the mortgage is perfectly good, except that the depositary has not got the legal estate;" and decreed a conveyance. It is well known that the

Vice-Chancellor of England considered foreclosure the remedy, and the extracts from his judgments in the last two cases sufficiently explain his views upon the subject. Nevertheless, in *Lewis* v. *John* (1 C. P. Coop. 8) and *Gilbert* v. *Hodgkins* (24th March, 1848) he made decrees for a sale, though there was in the former an agreement in writing for a conditional surrender; and à fortiori, in his view of the law, there should have been a foreclosure.

In *Thorpe* v. *Gartside* (2 Y. & C. 730) a decree for a sale was made by Alderson, B., upon a bill praying a sale; and another instance (*Bailey* v. *Gould*) was cited from the decrees in the Equity Exchequer. The only point raised was, whether the sale should be immediate or in six months.

Tylee v. *Webb* (6 Beav. 552) was a complicated case of priority. The bill prayed foreclosure, and Lord Langdale, M. R., was of opinion that the plaintiffs were entitled to have a decree accordingly, unless the parties agreed to confirm the sale of the property which had already taken place, and go against the purchase money. In that case the proceeds of the sale were in the hands of the second equitable mortgagee, and the plaintiffs claimed at the bar to have the money applied in satisfaction, as far as it would go, of the first equitable incumbrance, and to foreclose the estate in the hands of the purchaser for the remainder; which claim was clearly untenable, for, as Lord Langdale observes, the plaintiffs were not entitled to the estate and the purchase money too. None of the cases bearing upon the question were cited, but inasmuch as a sale had already taken place, and the proceeds were inadequate to discharge the first equitable mortgage, *Tylee* v. *Webb* seems rather an authority in favour of foreclosure, in case a sale (that is, a satisfactory sale) could not be had, and to follow the civil law. In *Mellor* v. *Woods*, (1 Kee. 16), Lord Langdale made a decree for a sale according to the prayer of the bill, where the only question was, whether the sale was to be immediate or not.

In *Tipping* v. *Power*, (1 Hare, 405), which was an administration suit by an equitable mortgagee praying a sale, the question of the plaintiff's right to a sale quâ mortgagee arose upon the points of priority and costs; and Sir J. Wigram, V. C., says, "In the case of a legal mortgage the argument is this, that the strict right of the mortgagee is foreclosure; but if he chooses to consent to a sale, and takes the benefit of that course of proceeding, he acquires a new right. This does not apply to an equitable lien, *for the party has no right but to a sale*. His contract is, that he shall be at liberty to sell, and prove for the difference." In *Lister* v. *Turner* (5 Hare, 281) there was an agreement to make a legal mortgage, with a power of sale; and the bill alleged the security to be scanty, and prayed a sale. The cases were cited, and Sir J. Wigram, V. C., said, "The decisions with regard to the right of an equitable mortgagee are not uniform; but in this case the express terms of the contract are, that the mortgagor shall convey the premises by way of legal mortgage, and that such mortgage shall contain a full and absolute power of sale; and to make the suit available for its objects it is necessary that there should be a decree for a sale. There is no reason, therefore, why such a decree should not be made." In *Allen* v. *Knight* (5 Hare, 272) the deposit was accompanied by an agreement to execute a legal mortgage. (See 15 L. J., Ch., 430). The question was one of priority, and the decree was foreclosure. In *King* v. *Leach* (2 Hare, 57) and *Jordan* v. *Jones* (2 Ph. 170) the decrees were for a sale. In the latter case the bill prayed foreclosure or sale.

In *Whitworth* v. *Gaugain* (3 Hare, 416) there was an agreement to execute a legal mortgage, and the bill prayed a sale; and Sir J. Wigram, V. C., says, "To explain the effect of this transaction by the deposit and agreement to execute a deed, as between the mortgagees and mortgagor, I shall content myself by quoting the words of the Lord Chancellor of Ireland in the case of *Rollaston* v. *Morton*, (1 Dru. & W. 195)—'If a man has power to charge certain lands, and agrees to charge them, in equity he has actually charged them, and a Court of equity will execute the charge.'" And in the same case, upon appeal, (1 Ph. 728), Lord Lyndhurst says, "By the equitable mortgage the plaintiffs acquired a special lien upon the property. They might, through the medium of this Court, have compelled a sale of it for the payment of their debt, or they might, by virtue of the engagement for that purpose, have obliged the mortgagor to convert the equitable into a legal mortgage." The language of Lord Lyndhurst's judgment is remarkable, as being directly opposed to the Vice-Chancellor of England's in *Moores* v. *Choat*.

In *Sims* v. *Helling* (21 L. J., Ch., 76) the equitable mortgagor was dead, and the solicitor, who acted for both parties in the transaction, had gone to America. The property was leasehold, and the claim was against the administrator, who denied the deposit; and Sir J. Romilly, M. R., made the usual decree in the case of an equitable mortgage for an account and sale of the property. In *Moore* v. *Perry* (1 Jur., N. S., part 1, p. 126) there was an agreement to make a mortgage when required, and Sir J. Romilly considered it now settled, that where a deposit of title deeds is accompanied by a memorandum containing an express stipulation that the depositor will, if required, execute a legal mortgage, the depositor is entitled to a foreclosure.

In *Creswick* v. *Harrison* (2nd March, 1852; Set. Dec. 211) it seems that Sir G. J. Turner, V. C., made a decree for a conveyance in the same form as *Newton* v. *Aldous*, but it does not appear under what circumstances.

In *Burgis* v. *Moxon*, (2 Jur., N. S., part 1, p. 1059), in which the facts were very complicated, the bill prayed a sale, and the equitable mortgage being established, Sir J. Stuart, V. C., decreed a sale, without comment.

In *Carlon* v. *Farler* (8 Beav. 525) the bill was by a judgment creditor, and prayed foreclosure or sale, and at the hearing the plaintiff insisted on an immediate sale. The defendant urged that he was entitled to six months to redeem. The Master of the Rolls took time to consider, and in the meantime the plaintiff agreed to give the time, and a decree for a sale was taken. In *Ford* v. *Wastell*, (2 Ph. 591), which was also by a judgment creditor, the bill prayed a sale; but at the hearing the defendant preferred a foreclosure, and the decree was made accordingly. In *Footner* v. *Sturgis* (21 L. J., Ch., 741) Sir J. Parker, V. C., refused a foreclosure, and made an order for a sale; and in *Bates* v. *Hilcoat* (Set. Dec. 216) the present Master of the Rolls directed a conveyance. Now, it is difficult to understand upon what principle either a foreclosure or conveyance can be decreed in favour of a judgment creditor, because he is not a mortgagee at all. It appears almost as unwarrantable as a foreclosure in favour of a simple contract creditor whose debt is charged by will upon the testator's real estate; and at least the balance of authority is against foreclosure in such cases.

Upon a review of all the authorities in which the question was discussed, it would appear that Sir J. Leach's opinion was in favour of a sale; that Lord Cottenham's was originally in favour of a foreclosure, but that he afterwards changed his mind; that Sir L. Shadwell's was in favour of a foreclosure; and that Sir J. Wigram's and Lord Lyndhurst's were in favour of a sale. Thus the balance of authority is in favour of a sale; and such being the result arrived at upon principle, it is probable that the next time the point undergoes a judicial decision it will be so definitively settled.

F. P.

64, Margaret-street, Cavendish-square,
Jan. 13, 1857.

JOHN DANGER, Yatton, Somersetshire, and Bristol, leather factor, Feb. 3 and March 3 at 11, Bristol: Off. Ass. Miller: Sols. Bevan & Girling, Bristol.—Pet. f. Jan. 13.

JONATHAN WRIGHT HORSFALL, Leeds, commission agent, Feb. 2 and March 2 at half-past 11, Leeds: Off. Ass. Hope; Sol. Prest, Leeds.—Pet. d. Jan. 10.

WILLIAM BALSHAW, Liverpool, joiner, Feb. 4 and March 4 at 11, Liverpool: Off. Ass. Morgan; Sol. Payne, Liverpool.—Pet. f. Jan. 16.

GEORGE SANDHAM, Carr Mill, near Newchurch, Forest of Rossendale, Lancashire, cotton spinner, Jan. 30 and Feb. 20 at 12, Manchester: Off. Ass. Hernaman; Sols. Cobbet & Wheeler, Manchester.—Pet. f. Jan. 12.

JAMES TURNER, Newcastle-upon-Tyne, oil merchant, Feb. 3 at 11, and March 4 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hoyle, Newcastle-upon-Tyne; Crosby, 3, Church-court, Old Jewry.—Pet. f. Jan. 14.

GILBERT HODGSON and WILLIAM ATCHESON, Sunderland, Durham, timber merchants, (trading under the style or firm of Hodgson & Atcheson), Feb. 10 at 11, and March 6 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Harle & Co., Newcastle-upon-Tyne, and 20, Southampton-buildings, Chancery-lane.—Pet. f. Oct. 10.

Meetings.

Ephraim Fairhead, Cressing, near Braintree, Essex, cattle dealer, Jan. 29 at half-past 12, London, aud. ac.—*J. Foord*, Charlton, Dover, Kent, licensed victualler, Feb. 3 at 2, London, aud. ac.—*Rowland Muckleston*, Hackney-road-crescent, wholesale shoe manufacturer, Feb. 6 at 11, London, aud. ac.—*Wm. Holmes*, Friday-street, Cheapside, silk gauze manufacturer, Jan. 30 at 11, London, aud. ac.—*William Reeve*, Albion-street, Caledonian-road, engineer, Jan. 30 at 12, London, aud. ac.—*John Young*, Surrey-street, Strand, general commission agent, Jan. 30 at 11, London, aud. ac.—*Charles Hawkins*, Strand, camp equipage manufacturer, Jan. 30 at 11, London, aud. ac.—*Abraham Lazarus*, High-st., Whitechapel, tailor, Jan. 30 at half-past 12, London, aud. ac.—*James Dellagana* and *Bartholomew Dellagana*, Red Lion-st., Clerkenwell, stereotype founders, Jan. 30 at 11, London, aud. ac.—*Rees Davies*, Tredegar, Monmouthshire, grocer, Feb. 19 at 11, Bristol, aud. ac.—*Henry Binnell Harris*, Shrewsbury, Shropshire, draper, Feb. 19 at half-past 11, Birmingham, aud. ac.—*John Pitt*, Birmingham, retail brewer, Feb. 7 at half-past 11, Birmingham, aud. ac.—*W. B. Jones*, Birmingham, grocer, Feb. 6 at half-past 11, Birmingham, aud. ac.—*Thos. Bate*, Birmingham, hat manufacturer, Feb. 6 at half-past 11, Birmingham, aud. ac.—*Thomas Brindley*, Uttoxeter, Staffordshire, grocer, Feb. 6 at half-past 11, Birmingham, aud. ac.—*A. S. Parker*, Plymouth, draper, Feb. 2 at 10, Plymouth, aud. ac.—*Thomas Salkeld*, Basinghall-street, warehouseman, Feb. 11 at 11, London, div.—*Henry Howgate* and *George Howgate*, Sheffield, steel converters, Jan. 31 at 10, Sheffield, aud. ac.—*Emery Walker*, Blomfield-street, Harrow-road, and Charles-mews, Charles-street, Westbourne-terrace, Middlesex, coach builder, Feb. 14 at 12, London, div.—*Wm. C. Stuart*, Cambridge, tailor, Feb. 11 at 1, London, div.—*John Clarke*, New Cavendish-street, Portland-place, and Upper Marylebone-street, surgeon, Feb. 11 at 1, London, div.—*Francis Seaward*, Abchurch-yard, Abchurch-lane, licensed carman, Feb. 10 at half-past 11, London, div.—*James Taylor*, Balladen Mill, near Rawtenstall, and Midgehole Mills, Helmshore, Forest of Rossendale, Lancashire, drugget manufacturer, Feb. 5 at 12, Manchester, aud. ac.; Feb. 12 at 12, div.—*James Evans* and *Geo. Davey*, Britton Ferry Ironworks, Glamorganshire, ironmasters, Feb. 19 at 11, Bristol, fin. div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John T. Metcalfe and *George Metcalfe*, Bow-lane, London, and Farnham, Surrey, canvass merchants, Feb. 11 at 12, London.—*Francis Seaward*, Abchurch-yard, Abchurch-lane, licensed carman, Feb. 11 at 1, London.—*Charles O. Robson*, Belmont-wharf, York-road, King's-cross, wharfinger, Feb. 11 at 11, London.—*James Stevenson*, Wandsworth-road, brewer, Feb. 11 at half-past 11, London.—*Owen Thomas*, Manchester, tailor, Feb. 11 at 12, Manchester.—*Isaac James Hadwen* and *James Lamont M'Gregor*, Liverpool, and Havannah, Island of Cuba, merchants, Feb. 13 at 12, Liverpool.—*David Buckler*, Birmingham, builder, Feb. 12 at 10, Birmingham.

To be granted, unless an Appeal be duly entered.

Samuel Woods, Weybridge, Surrey, builder.—*Richard Bell*, Gracechurch-street, contractor.—*Louis Ensoll*, Great Titchfield-street, linendraper.—*Alfred Page*, Baker-street, Portman-square, shoe manufacturer.—*Richard Slocombe*, Kentisbury, Devonshire, farmer.—*Allen Searell*, Furzeley Mill, near Ashburton, Devonshire, miller.—*Robert M'Lean*, Liverpool, licensed victualler.—*Thomas Gibbs*, Burslem, Staffordshire, publican.—*James Wood*, Wolverhampton, grocer.—*William Humphries*, Brierley-hill, Kingswinford, Staffordshire, innkeeper.—*Thomas Brindley*, Uttoxeter, Staffordshire, grocer.

Scotch Sequestration.

James Borthwick, deceased, Partick, near Glasgow, Lanarkshire, gardener.

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GAZETTES.—Friday, *Jan.* 23.

Bankrupts.

GEORGE DEEKS, Pembridge-villas, Westbourne-grove, Bayswater, auctioneer, Feb. 3 at 1, and March 3 at 11, London: Off. Ass. Bell; Sol. Davis, 5, Arundel-street, Strand.—Pet. pres. Nov. 24.

THOMAS CANTRILL, Rivers-terrace, York-road, King's-cross, railway grease manufacturer, Feb. 6 at 1, and March 3 at 2, London: Off. Ass. Edwards; Sols. Wright & Bonner, 15, London-street, Fenchurch-street.—Pet. f. Dec. 18.

EDWARD WHITE, Cushion-court, Old Broad-street, City, share broker, Feb. 3 at half-past 2, and March 3 at 1, London: Off. Ass. Edwards; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, Bucklersbury.—Pet. f. Jan. 10.

JOSEPH WALTERS, Northampton, hatter, Feb. 6 and March 6 at 12, London: Off. Ass. Cannan; Sols. Jeffery, Northampton; Reed & Co., 59, Friday-street.—Pet. f. Jan. 19.

JOHN DICKSON, Fleet-street, London; Swansea, Glamorganshire; and late of Wellington, Shropshire, builder, Feb. 3 at half-past 11, and March 3 at 12, London: Off. Ass. Stansfeld; Sols. King & George, 35, King-street, Cheapside.—Pet. f. Jan. 20.

GEORGE BALL, New Lenton, Nottinghamshire, plumber, Feb. 10 and March 3 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Coope, Nottingham; Harrison & Wood, Birmingham.—Pet. d. Jan. 15.

JOHN MORLEY, Nottingham and Sneinton, Nottinghamshire, joiner, Feb. 10 and March 3 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Coope, Nottingham.—Pet. d. Jan. 20.

STEPHEN TOWAN, Plymouth, Devonshire, currier, Feb. 2 and March 2 at 10, Plymouth: Off. Ass. Hirtzel; Sol. Elworthy, Plymouth.—Pet. f. Jan. 20.

WILLIAM HENRY DICKINSON, Sheffield, Yorkshire, joiners' tool manufacturer, Feb. 7 and March 21 at 10, Sheffield: Off. Ass. Brewin; Sol. Broadbent, Sheffield.—Pet. d. and f. Jan. 17.

JOHN LADD, Liverpool, contractor, Feb. 5 and March 5 at 11, Liverpool: Off. Ass. Turner; Sol. Pemberton, Liverpool.—Pet. f. Jan. 12.

HENRY FREDERICK JORSS, Manchester, merchant, (trading under the style or firm of H. F. Jörss & Co.), Feb. 12 and March 5 at 12, Manchester: Off. Ass. Hernaman; Sol. Stead, Manchester.—Pet. f. Jan. 19.

JAMES SCHOFIELD, Ashton-under-Lyne, Lancashire, tailor, Feb. 3 and March 3 at 12, Manchester: Off. Ass. Pott; Sols. Brooks & Marshall, Ashton-under-Lyne.—Pet. f. Jan. 19.

Meetings.

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THE JURIST.

LONDON, JANUARY 31, 1857.

ACCORDING to the well-known rule which governs the administration of estates in bankruptcy, the joint estate of a bankrupt firm, consisting of two or more partners, is first distributed amongst the joint creditors of the firm, and the separate estate of each partner amongst his separate creditors; and, after all the joint debts have been paid, what remains of the joint estate is divided, and added to the separate estates of the several partners, in proportion to their shares in the partnership; while, on the other hand, the surplus of the separate estate of each partner, after his separate debts have been paid, is applied towards payment of the remainder of the joint debts; and after these have been fully satisfied, then, if all the separate estates have not been exhausted, any further surplus will revert to the several partners, according to their respective interests therein. This rule for the distribution of assets in bankruptcy, which was at an early period designated "a resolution of convenience," (*Ex parte Cook*, 1728, 2 P. Wms. 500), and was afterwards made the subject of a general order, (Lord Loughborough's Order, March 8, 1794), was probably founded upon one of the very first enactments made to answer the general end of the statutes relating to bankrupts, viz. that the assets are to be distributed equally amongst the creditors, or, to use the words of the stat. 34 & 35 Hen. 8, c. 4, "for true satisfaction and payment of the creditors—that is to say, to every of the said creditors a portion, rate and rate alike, according to the quantities of their debts." How, then, stands the case of a creditor holding a joint security against a firm, and a separate security against one of the partners in that firm for the same debt? At the common law, it is true, that if a man hold both a joint and a separate security, he may take in execution both the joint property of the firm and the separate property of the partner; although, on the other hand, the obligee in a joint and several bond cannot sue the obligors jointly and one of them separately at the same time. The bankrupt law follows the analogy of the latter rule, (*Ex parte Rowlandson*, 1735, 3 P. Wms. 408), but upon quite a distinct ground. It considers, that to permit a creditor holding both a joint and separate security to prove against the separate as well as the joint estate would be unfairly to diminish a fund to which, after payment of the separate debts, the joint creditors have as much right to look for the discharge of their claims as he has. It does not, therefore, invest such an one with the double character of a joint and a separate creditor, but permits him to assume either character at his pleasure; and it has long been an established principle, not to be disturbed otherwise than by act of Parliament, that such a creditor, whether the joint and separate security is given to him either by the same or by different instruments, must elect against which estate he will prove.

There is, however, a class of cases in which a double proof for the same debt has been sometimes admitted and sometimes rejected, and which has been supposed to form an exception to the above general rule; as, for instance, where the joint security has been given by an aggregate firm, and a separate or additional security by one or more of the members of the firm, *who at the same* *time carried on a distinct trade.* All the cases of this kind have recently been discussed in that of *Ex parte Goldsmid*, (2 Jur., N. S., part 1, p. 1106), from whence it appears that the law upon the subject has undergone several changes, and is not even yet thoroughly settled. We propose, therefore, to examine the most important of these cases, and to present the results to the reader in a compendious form.

In *Laforest's case*, 1797, (Cooke's B. L. 276), the holders of bills drawn by A. and B., partners in one trade, upon C. and D., who were partners with A. and B. in another trade, carried on under the firm of C. and D., were admitted to prove against both the joint estate of A. and B. (that is, the joint estate of the minor firm) and the joint estate of C. and D., (that is, that portion of the joint estate of the major firm which belonged to those two partners who had accepted the bills). In *Ex parte Benson*, 1798, (Cooke's B. L. 278), the holder of a bill drawn by A., a partner with B. and C. in one trade, in favour of B. and C., who were partners in another trade, and indorsed by B. and C., was admitted to prove against both the joint estate of B. and C. and the separate estate of A. These two cases were both apparently decided on the ground that the holder of the double security was at the time of taking it *ignorant of the connexion in trade* of the parties by whom it was respectively given. In *Ex parte Adam*, 1813, (2 Rose, 36; 1 V. & B. 493), the holder of a bill drawn by five partners in one firm upon two of those partners carrying on a distinct trade under another firm was held entitled to prove against both the joint estate of the five and the joint estate of the two. The reports of this case do not quite agree as to the reasons of this decision. From that in Vesey and Beames it would seem to have proceeded upon the ground that there was an express bargain for double security with distinct houses; from that in Rose, of the ignorance of the billholder that the drawers and acceptors were connected in trade. At all events, these cases established, first, that the holder of a joint security given by a firm, and also of a joint security given by several members of that firm carrying on by themselves a distinct trade, might prove against both the joint estate of the firm and the joint estate of the several members carrying on the distinct trade, provided that at the time of taking this double security the holder had no knowledge of the connexion in trade of the parties whose liability was thereby respectively represented; secondly, that in the absence of any such knowledge on his part, the holder of a joint security given by several members of a firm carrying on by themselves a trade distinct from that of the firm, and also of a joint security given by the remaining members, or of a separate security given by the remaining member of the firm, might prove both against the joint estate of the several members carrying on the distinct trade, and also against the joint estate of the remaining members or separate estate of the remaining member of the firm, as the case might be.

In *Ex parte Walker, ex parte Wenslay*, 1813, (1 Rose, 441), the holder of a bill drawn by A., a sole trader, and also a partner in a joint adventure with B., C., and D., upon B. and C., partners in a distinct trade, and taken for goods furnished by the holder on account of the adventure, and therefore *with knowledge* on his part of the connexion of the four partners, was, on the bankruptcy of A., and of B. and C., allowed to prove against both the joint estate of B. and C. and the separate estate of A., on the ground that here the bill was not drawn by one or more of the members of a firm upon the firm, but by an individual partner carrying on one trade upon two other partners carrying on another trade; so that, in point of fact, the reason of the original rule could not apply, for the separate creditors of A. could never have come upon the joint funds of B. and C., which they had employed in a distinct trade, nor could those joint creditors of B. and C., who had given credit to them as distinct traders, ever call for contribution from the separate estate of A. (See the observations of Sir G. Rose upon this case, 1 Deac. & C. 75, 76). On comparing this last case with that of *Ex parte Benson*, we find that in neither was the bill drawn upon the firm, and that independently of the knowledge of connexion, the only difference between the two cases is, that in *Ex parte Benson* the drawer and acceptors together composed the whole firm. In *Walker* v. *Wenslay* there was an additional member, who had nothing to do with the bill; and the reasoning in this latter case would seem to tell with equal force for the admission of the double proof in all the three first-mentioned cases, even if in these, too, the billholders had known of the connexion. In *Ex parte Bigg*, 1814, (2 Rose, 37), the holder of a bill drawn by A. upon, and accepted by, the firm of B. & Co., of which firm A. was a partner, was not admitted to prove against the separate estate of A., after having proved against the joint estate of the firm. In this case the holder was aware of the connexion of A. with the firm. Lord Eldon, however, in giving judgment against the double proof, did not stay to examine that question, but relied upon the circumstance that A. was not a distinct trader, and therefore he could not by any means come within the supposed exception. The next case in order is that of *Ex parte Liddell*, 1814, (2 Rose, 34), to which a mere reference will be sufficient, as it neither throws much light upon the main point, nor is it in itself entirely free from obscurity. In *Ex parte The Bank of England*, 1814, (Id. 82), the Bank, being the holders of a bill indorsed by A., B., and C., partners, to C., who also carried on a distinct trade, and kept a separate account with the Bank, and indorsed by C. to them in his own name, according to the practice of the Bank, who when discounting bills always required the individual indorsement of their customer, were not admitted to prove against the joint estate of A., B., and C., and the separate estate of C., but were obliged to elect. In this case the Bank were aware of the connexion of the parties; and it was held that the circumstance of C. being a distinct trader could not help them; because, as it was only a single partner who carried on the distinct trade, "that circumstance," in the language of the Court, "resolved itself into nothing more than a resort to his separate estate, which, resorting at the same time to the joint estate, a creditor is not entitled to in bankruptcy." Here the test for the admission or exclusion of the double proof seems to have been twofold—First, was there a distinct trade? Secondly, was the additional security given by several or by one only of the partners carrying on by themselves or himself such distinct trade? It follows as a necessary inference, that if the additional security had been given by more partners than one carrying on such distinct trade, the holders would have been held entitled to prove against both estates, even though at the time of taking it they had knowledge of the connexion of those partners with the major firm. In *Ex parte Husbands*, 1825, (5 Mad. 419; 2 Gl. & Ja. 4), the holder of bills drawn by A. in his own name, but on account of the firm of A., which consisted of himself and B., a dormant partner, and accepted by B., was not permitted to prove against the joint estate of A. and B. and the separate estate of B., although ignorant at the time he took the bill that B. was a partner in the firm, but was held entitled to prove against the separate estates of A. and of B. This case involved a consideration of the rights of a creditor against a firm composed of one ostensible and one secret partner, and is somewhat similar to that of *Ex parte Liddell*, with which it may advantageously be compared. It is, however, especially valuable, for the language of the Lord Chancellor in his judgment. "It is clear," said his Lordship, "that where a party takes a bill drawn by some members of a firm carrying on a distinct trade, upon the firm, in ignorance that the drawers constitute part of the firm of the acceptors, proof is admitted against both the drawers and acceptors; and it is equally clear, that a person holding a joint and separate security for the same debt is in bankruptcy bound to elect." These words tend to confirm the distinction between the cases where the additional security is taken from one, and where from several of the partners in the firm. In *Ex parte Moult*, 1832, (2 Deac. & C. 419), the holders of a bill drawn by the firm of B. & Co., which consisted of A. and B., on the firm of C. & Co., which consisted of A. and C., accepted by C. & Co., and indorsed by B. & Co. and A. & Co., which latter firm consisted of A. only, were not admitted, on the bankruptcy of the firms of B. & Co. and A. & Co., to prove against both the joint estate of B. & Co. and also against the separate estate of A., although at the time of taking the security they were ignorant that A. was a partner either in the firm of B. & Co. or C. & Co. In *Ex parte Chevalier, in re Vansellor*, (1 Mont. & A. 345), the agent of a foreign government, being the payee of a bill drawn by a foreign firm on one of the partners carrying on a distinct trade in England, was permitted to prove under a commission issued against the partner in England, but not to receive dividends without first electing not to prove under a process of insolvency issued against the foreign firm.

If we now examine together the seven cases last cited, the result appears to be shortly as follows:—They confirmed the first of those conclusions which we deduced from the earlier cases; they established this further proposition, that where a man held a joint security against a firm, and for the same debt a separate security against one only of the partners carrying on by himself a distinct trade, whether with or without knowledge of the connexion of the sole trader with the firm, he would not be admitted to prove against both the joint estate of the firm and the separate estate of the single partner; and finally they raised a new topic for debate—whether, where more of the partners than one carried on the distinct trade and gave the additional security, the holder of the double security would be precluded from proving against both the joint estates, by knowledge, at the time of taking it, of the trade connexion of the parties. This last question should, we think, have been answered in the negative. Had this been so, we should have had a principle to rely upon, which might have been applied as an easy test throughout this class of cases, viz. that double proof for the same debt will never be permitted against the joint and separate estate of the same person, but that it will be permitted against the joint estate of several partners, and the separate estate of another partner carrying on a distinct trade, or against two different joint estates, although the same person may be interested in both. This principle shines with more or less light through all the cases we have quoted. It is the only one on which, in our opinion, the exception to the general rule can consistently be founded, and indeed it renders that exception itself rather nominal than real. Unfortunately, however, this principle was annihilated by the case of *Ex parte Hinton*, 1847, (De Gex, 550). There the holder of a promissory note signed on behalf of a firm of six partners, and indorsed by a distinct firm consisting of three of those partners, he having at the time of taking the security had knowledge of the connexion of the parties, was not allowed to prove against the joint estate of the three as well as the joint estate of the six. So far the judgment followed the previous decisions; but in the reasons given for his judgment the chief judge of the Court of Review expressly departed from them. He discarded, and as we think rightly discarded, the question of knowledge or ignorance of the connexion; but he also held that it made no difference whether the additional security was given by one or by several of the partners constituting by themselves a distinct firm; forgetting apparently that the original rule itself amounted to nothing more than this, that one person could not unite in himself the two characters of a joint and separate creditor of the same person for the same debt, which a creditor did not in fact do by proving against different joint estates. This decision Sir G. J. Turner, L. J., thought himself bound to follow in the principal case of *Ex parte Goldsmid*, where it was held that a creditor, having a security for his debt upon each of two distinct firms, one of which consists of several members of the other, cannot prove against the joint estate of both firms. In this case the creditor had at least implied notice of the connexion of the members of the two firms; but his Lordship intimated, that upon the authority of *Ex parte Hinton*, the judgment would have been the same even if the creditor had had no such notice; and it seems therefore, that, with respect at least to knowledge or ignorance of connexion, no further argument should be raised in the discussion of this question.

Such is the present unsatisfactory state of the decisions upon the subject of double proof—a subject which it is to be hoped will shortly be brought before the House of Lords.

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THE recent proceedings in the Court of Queen's Bench in the case of *Reg.* v. *Clarke, in re Alicia Race*, upon a writ of habeas corpus, brought by a Roman Catholic mother for the purpose of removing her child from a Protestant seminary, require our notice, on account of the interest taken in them by the public. Moreover, the judgment of the Court deserves the attention of the Profession, as therein the legal rights of a guardian for nurture are clearly defined. The facts of the case were as follows:—A sergeant of Marines, named Race, being a Protestant, married a Roman Catholic, by whom he had two children, a boy, now about twelve years old, and a girl, named Alicia, now aged ten years and a half. The children had been baptised in the Anglican Church, but during the lifetime of their father they had, with his consent, received from their mother such religious instruction as accorded with her own profession of faith, and had been by her taught to say Roman Catholic prayers. Sergeant Race was killed before Petropaulovski during the recent war, and his widow thereby being left destitute with her two orphan children, the royal commissioners of the Patriotic Fund placed the boy in a naval school in Dorsetshire, and the girl at a corresponding school at Hampstead, both of which are Protestant seminaries as regards religious training. After the children had been some months at these schools, the mother, with the consent of the commissioners, removed her son from the school; but upon her proceeding to remove her daughter from the asylum in which she had been placed, the girl refused to leave, intimating to her governess (so it was alleged) that she believed she should be disobeying God were she to return to her mother for the purpose of being brought up as a Roman Catholic. In consequence of this refusal on the part of the child, the executive committee of the Patriotic Fund declined to permit her removal; whereupon Mrs. Race obtained a writ of habeas corpus on the matron of the school, commanding her to bring the body of Alicia Race into court for the purpose of being delivered up to her mother. The return to the writ, inter alia, set forth that the matron did not detain the child against her will, but that she continued in the school at her own desire.

Before considering the principle upon which a Court of law proceeds in such cases, it is necessary to direct attention to the distinction between the power of the Court of Queen's Bench and of the Court of Chancery respecting parents and infants, which is shewn in the case of *De Manneville* v. *De Manneville*, (10 Ves. 52). The Court of Queen's Bench, being invested with nothing beyond a strictly legal jurisdiction to decide who legally has the right to the infant's custody, regards nothing except those causes which might exclude the father's right at law; but the Court of Chancery, representing the King as parens patriæ, has jurisdiction, in the event of the infant being made a ward of the court, to control the right of a father to the possession of his child, and to regulate its education. At common law guardianship for nurture belongs exclusively to the father, and the mother has no legal power over the child in the father's lifetime, except in the cases where, by Serjeant Talfourd's Act, 2 & 3 Vict. c. 54, the Lord Chancellor or the Master of the Rolls may, upon the mother's petition, if the child be under seven years, make an order on the father or testamentary guardian to deliver it into her custody. Upon the decease of the father without appointing a testamentary guardian, under the statute of Charles, guardianship for nurture, with all the rights belonging thereto, devolves upon the mother if living. One of the incidents of such guardianship is, that the guardian shall have the custody of the person of the child, for without this right he could not possibly perform the duties thus cast upon him. Following the language of the learned judges in the case now under consideration, "he is to 'nurture' the child: the legal sense of this word is its natural and common sense in the English language, which Dr. Johnson says is 'to educate, to train, to bring up.' Accordingly, from the cases to be found in the Year Books (8 Edw. 4, 7 b) to the present time, it has ever been considered that the father, or whoever else on his death may be the guardian for nurture, has by law a right to the custody of the child, and may maintain an action for trespass against a stranger who takes the child." (See authorities in Com. Dig., "Guardian," D.)

The question raised for the decision of the Court was, whether a guardian for nurture has an absolute right to the custody of a child until the age of fourteen, or whether between the ages of seven and fourteen the Court ought to examine the child, to ascertain if it has sufficient discretion to choose between the custody of its guardian and that of another person, "and, according to the degree of mental ability which it is found to possess, to hand it over to the guardian, or to liberate it, and desire it to go where it pleases."

It was contended that a guardian for nurture has only the absolute control of the child until seven years of age; but that as in criminal cases, although between seven and fourteen, an infant is judged primâ facie innocent, yet if he can discern between good and evil at the time of the offence committed, he may be convicted and undergo judgment, the maxim being "malitia supplet ætatem,"—so, if between seven and fourteen the Court considers an infant to have arrived at years of discretion, he ought to be permitted to select his own guardian. But it must be apparent, upon reflection, that the analogy will not hold, for malice is the effect of a depraved will, while discretion means judgment, which is an operation of the understanding; and upon this recognised psychological distinction the law proceeds when it attaches different legal capacities to different periods of infancy; for though an infant is sometimes deemed doli capax between seven and fourteen, yet in no case, except for necessaries, is he considered to possess sufficient discretion between those ages to bind himself by a contract; and Blackstone, when he states that an infant between seven and fourteen may be convicted, and undergo judgment and execution, adds, "though he hath not attained to years of puberty or *discretion*;" whereby it is apparent that the distinction to which we have alluded must have been observed by that writer. (See also 1 Hale's P. C. 26).

The judgment of the Court is certainly conformable to justice and reason, as it is doubtless sound in point of law; for if the position contended for by the learned advocate who appeared on behalf of the child had been held to have been law, the most absurd, as well as disastrous, contentions in families might have followed. "The intellectual faculties of the child," said the Court, "may be considerably developed in that interval," (i. e. between seven and fourteen), "and the child may now have a very strong inclination to leave the home of the guardian, and, from religious as well as frivolous motives, to be educated at a different school from that which the guardian has selected. But the consequences which would follow from allowing such a choice are most alarming. We must lay down a rule which will be generally beneficial, although it may operate harshly in particular instances. If the proposed choice were given to the child, the relation of guardian and ward would still subsist; the guardian might retake the child wherever he found it, and he might maintain an action against the person who, contrary to his wishes, takes or detains the child. Then how could 'nurture' be carried on with such a doctrine, which, if established, would apply to every father of a family in the kingdom in respect of all his children, male and female, above the age of seven years? If a father wishes to take his son, when ten years old, from a private school where flogging is not practised, and send him to Eton, and the boy refuses to come home, and is brought up by habeas corpus, is he to be permitted to say, that, on consideration, he is of opinion that the private school is preferable to any public school where flogging is permitted, and therefore makes his election to return to the private school, the master being willing to receive him? Or suppose that a Protestant mother, guardian for nurture of a daughter seven years of age, sends her to a boarding-school professing to be a Protestant seminary; in a short time she finds that attempts have been successfully made by teachers there to convert the girl to the Roman Catholic faith; the girl refuses to come home, saying, in analogy to the language used by Alicia Race, 'I will not go home to my own mother; I will stay here, where I may pray to the mother of God;' she is in consequence brought up by habeas corpus. Are we to examine her, and, finding her of quick parts, and professing to be a sincere convert to the Roman Catholic faith, to tell her, that, in spite of the wishes of her mother, she is at liberty to return to the school where she has been converted? Such a doctrine seems wholly inconsistent with parental authority, which both reason and revelation teach us to respect as essential for the welfare of the human race."

In the course of the argument it was said that a child of the age of Alicia Race was as susceptible of receiving religious truth as an adult, and allusions were made to the workings of prevenient grace, and to the words, "Suffer little children to come unto me, for of such is the kingdom of heaven;" but the Court observed, that it was impossible, without irreverence, to shew how utterly beside the question such allusions were; and we would recommend those who wish to decide points of law by reference to the Scriptures to ponder upon the following observations of Lord Denman in the case of *Reg.* v. *Chadwick*, (11 Q. B. 203, 232):—"It has been argued here that the judges of the common-law courts, who may now be called upon to decide these questions," (marriages within the prohibited degrees of consanguinity), "must take their rule from the Scriptures. But what Scriptures? If I am called upon to determine what the law of God is, am I to be bound by what a particular translation tells me? We have been occupied here by a discussion of five days, in which as many different interpretations have been put upon the text under dispute."

The case of *Rex* v. *Greenhill* (4 Ad. & El. 624) decided, that where a young person under twenty-one years of age is brought before the Court by habeas corpus, if he be of an age to exercise a choice, the Court leaves the infant to elect where he will go. The case now under consideration decides that it is not until after fourteen that the infant is deemed of an age capable of exercising such choice. Until that age, when the child is unlawfully detained from its guardian, it is supposed to be unlawfully imprisoned; and when brought up under a habeas corpus and delivered to him, the child is deemed to be set at liberty. (*Rex* v. *Mandeville*, 5 East, 220). But though the legal right of a guardian for nurture be as above described, the guardian may have forfeited his right by prior immoral conduct, or by having some illegal act in view when possession of the child has been obtained. "The right of the father would not be acted upon where the enforcement of it would be attended with danger to the child, as where there is an apprehension of cruelty, or of contamination by some exhibition of gross profligacy," (per Lord Denman, C. J., in *Rex* v. *Greenhill*); our law in this respect being conformable to the maxim of the civil law, that "patria potestas in pietate debet, non in atrocitate, consistere." In the case we are now discussing, the Court, being of opinion that no immorality whatever could be imputed to Mrs. Race, but that she was a virtuous woman, decided that as guardian for nurture she was entitled to all the rights belonging to a mother as surviving parent; and moreover, that as her husband had not appointed her testamentary guardian, with directions that the children should be trained as Protestants, she was under no legal obligation to educate them in the principles of that faith; for the cases of *Villareal* v. *Mellish*, (2 Swanst. 536), a perusal of which we would recommend, as being analogous to that of Alicia Race, and *Talbot* v. *The Earl of Shrewsbury*, (4 My. & C. 672), shew that in such matters the Courts know of no distinction between different religions, and will not interfere with the discretion of guardians as to the faith in which they educate their wards.

Correspondence.

TO THE EDITOR OF "THE JURIST."

SIR,—As your valuable paper has been at all times open to practical suggestions for the reform of the law, I trust you will permit me to bring before your readers a subject of gravest concern to many suitors, viz. the system of referring causes at the trial to an arbitrator chosen by the parties. No excrescence on our legal institutions more needs the attention of the law reformer. The peculiar abuse, in the present state of things, is, that while a reference is contemplated as the only legitimate mode of terminating a vast number of disputes—those particularly which are likely to arise between people in trade—there is, nevertheless, no effort on the part of the Executive to provide the public with the necessary tribunal. Surely, if it be essential to the administration of justice that courts of arbitration should exist, as well as the established tribunals of the country, it is only right that the former should be provided, equally with the latter, at the public expense.

At present the suitor in any of those cases in which the judge is said "irresistibly to press a reference" must either abandon his rights or consent to construct a tribunal for himself; he must pay a judge, hire a court, give extraordinary fees to counsel, and incur delays and expenses many times greater than those required for an ordinary trial. Then what is the result, if he be courageous enough to go on? Can any judicial institution be less creditable to the nation than the arbitrator in his mimic court, lord of misrule, as he too frequently is, surrounded by embarrassments against which justice would struggle in vain in the constituted tribunals, and compelled to pronounce his judgment with a technical precision which all other judges have somehow managed to avoid? It is quite clear, that unless the arbitrator be a most patient and painstaking man, he will never be placed in full possession of the evidence; and unless he be unusually learned in an unattractive department of law, the chances are greatly in favour of a successful application from the disappointed litigant to set aside or alter his award.

It may be said that the selection of the arbitrator rests with the parties, and they are therefore fairly responsible for his shortcomings. But it is notorious that arbitrators are selected by the counsel on each side, and generally of necessity from among those members of the Bar who have least to do. It often happens that counsel and litigants are alike in the dark as to the fitness of their nominee for the duties imposed on him.

The practical suggestions I would offer are these—that a body of arbitrators should be appointed, who should be paid by the nation; that their competency should be ascertained by examination into their knowledge of the rules of evidence, and the peculiar duties of arbitrators.

Such a system would, it seems to me, be a remedy for the worst grievances of the present state of things, and afford an admirable school for training men for judicial offices.

I am, sir, your obedient servant,
S. W.

PAYMENT OF DUTY ON A LEGACY CHARGED WITH AN ANNUITY.

TO THE EDITOR OF "THE JURIST."

Sir,—By stat. 36 Geo. 3, c. 52, s. 9, the duty on a legacy charged with an annuity is to be calculated on the amount of the legacy after deducting the value of the annuity according to the tables. This section is still in force. It works well for the relief of the executor, who can thus clear himself by making one immediate payment of duty in respect of the legacy. But the section does not find favour at Somerset House. The authorities there, when an executor proposes to make payment in the manner prescribed by this section, require him instead, first, to pay duty on the amount of the legacy after deducting a sum which at 4*l.* per cent. will yield interest equal to the annuity, and then, on the determination of the annuity, to pay duty on the deducted sum. The executor or trustee, whose ordinary duties are never too small, has thus a prolonged responsibility, contrary to the act.

In practice, if the executor makes a firm stand on sect. 9, the authorities are in the habit of yielding; but what right have they for one moment to require payment according to their own plan? And may not this official plan of deferred payment cause occasional loss to the revenue through the intervening insolvency of parties liable to the payment?

I am, sir, yours &c.,
Middle Temple, Jan. 19, 1857. A. B.

GENTLEMEN CALLED TO THE BAR.

The following gentlemen have been called to the degree of Barrister at Law:—

Lincoln's Inn.—Thomas Waraker, Esq., LL. B.; John Edwards, Esq.; John Coutts Antrobus, Esq., M. A.; Edward Macnaghten, Esq., M. A.; Edward Cutler, Esq.; Messing Thomas Laxton, Esq.; Sydney Crawshay, Esq., B. A.; Edward Dwyer, Esq., B. A.; and Theodore Lavalliere, Esq.

Inner Temple.—Alfred George Marten, Esq., B. A., S. C. L., (certificate of honour); Thomas Bendyshe, Esq., M. A.; Vernon Lushington, Esq., S. C. L.; William Alexander Neill, Esq., B. A.; Richard Thomas Tidswell, Esq., B. A.; James Croome, Esq., M. A.; and Roper Weston, Esq., B. A.

Middle Temple.—William Ritchie, Esq., (holder of the studentship awarded by the Council of Legal Education, Hilary Term, 1857); Randal Francis Tongue, Esq.; and James William Branson, Esq.

Gray's Inn.—Charles Kennedy, Esq., B. A.

EXAMINATIONS AT THE INCORPORATED LAW SOCIETY.—Hilary Term, 1857.

At the examination of candidates for admission on the roll of attornies and solicitors of the superior courts, the examiners recommended as deserving of honorary distinction—

Charles Wright, of Sunderland, who served his clerkship to Mr. Joseph John Wright, of Sunderland, and Messrs. Maples, Maples, & Pearce, of Frederick's-place, Old Jewry.

Alfred Beaven, of Highway, Wiltshire, who served his clerkship to Mr. Arthur Gore, of Melksham, and Messrs. Smith & Shepherd, of Golden-square.

Henry Cipriani Potter, of Inverness-terrace, Hyde Park, who served his clerkship to Mr. James Leman, of Lincoln's-inn-fields.

The Council of the Incorporated Law Society have accordingly awarded the first prize of books to be presented to Charles Wright, and the second prize of books to be presented to Alfred Beaven and Henry C. Potter. By order of the Council,

R. Maugham, Secretary.

Law Society's Hall, Jan. 22, 1857.

MERCANTILE-LAW CONFERENCE.—LAW OF BANKRUPTCY.

The following paper upon the law of bankruptcy was read by Mr. Commissioner Ayrton at the meeting of this conference on the 28th inst.:—

"The matter which I have the honour to bring before this important meeting is the improvement of the bankrupt laws. Your time is so precious that I have endeavoured to make my paper as short as possible, which will partly account for some obscurity and abruptness in style. There are important questions of principle and many matters of detail in which improvement may be made, but which I must omit—the time will not allow me even to mention them. The question which I propose to consider is, whether the present system of administration of the bankrupt laws requires any and what practical amendment. The two great complaints which it has fallen to my lot to hear are—first, that it is too expensive; and, secondly, that the punishments inflicted are uncertain and inadequate. But expense is the great complaint. Now, the Court of Bankruptcy being a mercantile court, its expenses are taken out of bankrupt estates, and fall exclusively upon those who suffer by bankruptcies; and if those persons allege that the expense of their own court is too great, I apprehend that the complaint is entitled to be heard with respectful attention, and that it is the duty of practical men to point out the remedy, if there be one. In working a bankruptcy with the smallest possible amount of assets—that is, with only 150*l.*—at least 100*l.* will be swallowed up in expenses. As the assets increase, so the expenses swell up, though not in the same ratio, to 200*l.*, 300*l.*, and 400*l.*, till, in such cases as the Royal British Bank, the ordinary working expenses will be as many thousands of pounds. The expense of the Court of Bankruptcy is now greater than it will be a few years hence—first, because the large sum (about 28,000*l.* annually) now paid for pensions and compensations will, of course, cease as the annuitants die; and, secondly, because the permanent expenses of the court are to be diminished by reducing the commissioners to four in London and to seven in the country, thus saving the expense of seven commissioners and seven registrars, or 18,000*l.* annually. That the gross expenses of the court are too great is apparent from the fact that its expenditure has exceeded its income for many years. In order to enable this meeting to form an opinion on this question of expense, I am compelled to bring forward a few figures. I know how distasteful figures sometimes are, but on the present occasion my apology is, that figures cannot be avoided if we wish to form anything like an accurate judgment. The fund for payment of the compensations and for the salaries of the existing officers of the Court of Bankruptcy is raised by a stamp duty of 10*l.* on every petition for adjudication, and a per-centage on the dividend paid in each bankruptcy. The following table will give a tolerably correct idea of these annual expenses:—

Compensations and pensions (about)	£28,000
Accountant in bankruptcy and clerks	6,380
Five London commissioners (2000*l.* each)	10,000
Eleven country ditto (1800*l.*)	19,800
Taxing Master and clerks	1,650
Seven London registrars (1000*l.*)	7,000
Twelve country ditto (800*l.*)	9,600
Five London ushers (100*l.*)	500
Eleven country ditto (80*l.*)	880
Chief registrar's clerks (four)	905
Travelling expenses of country commissioners and registrars (about)	1,000
	£85,715

"In addition to which sums, the solicitors, official assignees, and messengers have to be paid. How much these receive I cannot accurately state, but I believe that the following will be below rather than above the mark:—

Estimate—Annual.

Solicitors' bills, London and country	£100,000
Thirty official assignees (1200*l.* each)	36,000
Seventeen messengers (800*l.* each)	13,600
	£149,600

"The first item is 28,000*l.* a year for compensations and pensions for abolished offices. Before the reform of the bankruptcy system by Lord Brougham in 1832, fees were payable on issuing commissions, and payable to some 700 commissioners of bankruptcy, distributed over the country. The Legislature thought fit to abolish these fees and commissionerships, and, with great justice, gave pensions and compensation to those who suffered by the abolition. But is it not unjust to saddle these compensations upon bankrupt estates in the present day? The mercantile world with justice complains at having to pay for two sets of officers—the old ones, who were abolished, and the new ones, who were created. Assuming that the working expenses of the present Court of Bankruptcy ought to be paid out of bankrupts' estates, surely it would be proper that this sum of 28,000*l.* for compensations, from which bankrupt estates derive no advantage whatever, should be charged upon the Consolidated Fund. As regards the working expenses of the Court of Bankruptcy, from returns made to Parliament last year I have prepared a table of the expenses of the court in which I act in Leeds, which I have averaged, and which will, I hope, give some idea of the expenses of working a bankruptcy:—

"*Bankruptcies wound up in Mr. Ayrton's Court, Leeds, in* 1853, 1854, 1855.

Number of bankruptcies .... 121 = 40 1-3rd

Average time of working .... 3¼ years.

	Total.			Average.		
Gross sum collected	£90,627	16	8	£748	19	9
Amount divided	44,377	2	10	366	14	8
Solicitors' charges in bankruptcy	14,320	14	3	118	6	11
Ditto suits, actions, indictments	428	1	0	3	10	8
Official assignees' charges:—						
Per-centage on remuneration	5,671	12	4	46	17	5
Stationery, &c.	900	12	5	7	8	10
Postages, &c.	134	5	3	1	2	2
Miscellaneous	97	11	0	0	16	0
Per-centage to chief registrar	3,103	6	6	25	12	11
Messenger	3,569	12	7	29	10	0
Broker	634	15	7	5	4	11
Rent	3,031	1	9	25	1	0
Taxes	404	8	11	3	6	10
Wages	1,064	12	1	8	15	11
Auctioneer	1,652	13	5	13	13	1
Miscellaneous	8,373	6	2	69	4	0

"The average of solicitors' bills is 121*l.*; but from this is to be deducted a stamp duty of 10*l.* paid on each petition, reducing the average of each bill to 111*l.* This sum of 10*l.* must be added to the per-centage paid to the chief registrar, making the average 27*l.* Each Court of Bankruptcy consists of the following officers:—1. A commissioner; 2. A registrar to assist the commissioner; 3. An usher; 4. An official assignee; 5. A messenger, who seizes the property; 6. A broker, who makes a list of the property seized by the messenger; 7. An auctioneer, who sells the property; 8. The creditors' assignees; 9. The solicitor; 10. The bankrupt's accountant. Besides this staff there are—11. An accountant in bankruptcy; 12. A taxing master in London; 13. To keep all in order, there is a costly appeal to the Lords Justices, and from them to the House of Lords; 14. And over all is the Lord Chancellor, assisted by a secretary of bankrupts. This large array of officers contrasts unfavourably with the number of persons found necessary under a deed of assignment, in which case all that are essential appear to be—1. A solicitor; 2 Some trustees; 3. An accountant.

"*The Registrars.*

"It has been asked whether the registrars are necessary? In the country districts there is eventually to be but one commissioner in each district, who must sit daily; in case of his illness, and to enable him to take vacation, the registrar can act for him; and the country registrar has to tax the bills of costs of the solicitors: it therefore appears to me that the country registrars cannot well be dispensed with. In London it is different; the commissioners there sit for each other, and there is a taxing master in London: it therefore appears to me that the London registrars may be dispensed with.

"*The Taxing Master.*

"As regards the very able taxing master in London, it appears to me that his office is wholly unnecessary if the London registrars are continued; and if the master is continued, as I think he should be, then I perceive no necessity for the registrars.

"*The Messenger.*

"Another item of expense is the messenger, whose business is by no means pointed out by his name, his duty being, not to carry messages, but to seize the bankrupt's property. The messengers are useful and meritorious officers; they occasionally incur considerable responsibility, and their duties require temper, discretion, integrity, and a certain knowledge of law; consequently they ought to be well remunerated. But I think that they are too highly paid, and that, if the office is retained, the scale of their allowances or fees ought to be reduced. But I perceive no sufficient reason why the office of messenger should not be abolished. In former times the commissioners of bankruptcy sat only now and then, at long intervals, having little, if any, control over the assignees. In those days the messenger, who was answerable to the commissioners, was not merely useful, but absolutely essential; they are still useful, no doubt, but by no means essential, because the official assignee in no respect resembles the old creditors' assignees; he is a responsible man of business, constantly under the eye of the commissioner. I therefore propose that the office of messenger be abolished, and his duties transferred to the official assignee, who can employ competent persons to take possession of the property. I cannot perceive that this will be any hardship upon the official assignee. The estate vests in him, and if the same estate were vested in trustees under an assignment, they would find it no hardship to put proper persons in possession on their behalf.

"*The Broker.*

The broker is a new officer, who sprung up in the Court of Bankruptcy I do not know how. Formerly the messenger made a list or inventory of the property which he seized; latterly it was thought that this inventory should be made by a separate person—some broker; and thus the broker came to be a recognised officer; and as the poor man must live, his employment in all cases came to be a matter of course. The office should be abolished. If in particular cases the commissioner or the assignees should find it expedient to have an inventory or valuation made, there will be no difficulty in finding a broker in the next street. There is no necessity for a permanent officer.

"*The Official Assignee.*

"I believe that it is not easy to exaggerate the importance of this officer. I know, however, that a very general opinion prevails that the expense of this officer presses too heavily upon bankrupt estates. Seeing the importance of the officer, and recognising the necessity, as a general principle, of keeping men honest who are largely trusted, I would not advocate the reduction of their incomes too low, but I would give them more real work to do than they have at present. It is to be observed that the number will be reduced when the courts are reduced to four in London and seven in the country. The official assignees are now paid by a scale—so much per cent. for the amount got in, and so much per cent. on the amount divided. It was intended that this remuneration should bear a proportion to the work done, but I am sorry to have to declare my opinion that such is not the case. The small bankruptcies, which require much labour to collect numerous small debts, remunerate the official assignee badly, or not at all; while a large bankruptcy, as a banker's, which gives the least possible amount of trouble, may pay the official assignee a very large sum indeed. I know of a banker's estate in which, with the minimum of trouble, the official assignee received within the first twelve months a sum of 5000*l.* for remuneration. If the payment by scale was founded on any idea of averages, the returns made to Parliament of the incomes of the different official assignees proves the idea to be without foundation. One official assignee may be several years in office, and receive scarce sufficient to enable him to buy bread and cheese, while another may make a small fortune in a few months. It appears to me that the official assignee should be paid a fixed salary of 800*l.* a year, and also from 250*l.* to 300*l.* a year for office expenses. In addition to this, I would enable the commissioner to allow a sum, varying from 1*l.* to 20*l.* in each bankruptcy, for examining accounts and general diligence. This would give the commissioner some check and control, (which it is quite essential that he should have), and would give the official assignee a motive for being careful and diligent; in a word, would furnish that stimulus which is said to be so essential in order to prevent duty being performed in that languidly correct manner which leaves nothing to be complained of, but everything to be desired. If the office of messenger were abolished, then, as the whole of the bankrupt's property is invested in the official assignee, he appears to be the proper person to take steps to secure it. I would also require the official assignee to prepare the bankrupt's balance-sheet in all ordinary cases. On this subject I shall say a few words hereafter.

(*To be continued*).

COURT OF QUEEN'S BENCH.

HILARY TERM.—20 VICTORIA.—*Jan.* 23, 1857.

THIS Court will, on Monday, the 2nd, Tuesday, the 3rd, Monday, the 9th, and Tuesday, the 10th days of February next, hold sittings, and will proceed with the cases remaining unheard at the end of the Term in the New Trial, Special, and Crown Papers.

The Court will also hold a sitting on Tuesday, the 24th day of February next, for the purpose of giving judgments only.

BY THE COURT.

Court Papers.

NEW CASES.—HILARY TERM, 1857.

Court of Queen's Bench.

NEW TRIALS.

Midd.—Fernihough *v.* Sittingbourne & Sheerness Railway Co.
,, Parker *v.* Dingwall
,, Edwards *v.* English
,, Alderman *v.* Boddy
Lond.—Fell *v.* Burchett
Lond.—Simons *v.* Patchett
,, Wheelton *v.* Hardisty
,, Same *v.* Same
,, Hollingworth *v.* Buxton.

Tried during Term.

Midd.—Haigh *v.* Onsey.

SPECIAL CASES.

Those marked thus * are Special Cases, and thus † Demurrers.

†Newall *v.* Webster & an.
†Curlewis *v.* Earl of Mornington
*Good *v.* Good & an.
*Collen *v.* Wright & ors.
†Dalzell *v.* Morell
*Moran *v.* Jones
*Bains *v.* Jackson & ors.
†Poole *v.* Timber Preserving Co.

CROWN PAPER.

Middlesex.... Reg. *v.* Overseers of the Parish of Christchurch.
Glamorganshire ——— M. Thomas.
Birmingham .. ——— John Smith.
Lancashire.... ——— Edward Crook.
Glamorganshire ——— Taff Vale Railway Co.

Court of Common Pleas.

NEW TRIAL.

London—Michael *v.* Gillespie.

DEMURRER PAPER.

Those marked thus * are Special Cases, and thus † Demurrers.

†Simmons & Wife *v.* Siggins
†Goodman *v.* Spencer
†Florence *v.* Jenings
†Florence *v.* Drayson & ors.
†Keane *v.* Murphy
†Jenings *v.* Florence
*Gilkison & an. *v.* Middleton & ors.

Court of Exchequer.

NEW TRIALS.

Midd.—Hills *v.* London Gas-light Co.
,, Roberts *v.* Smith
Midd.—Abrahams *v.* Milsom & Wife
Lond.—Booth *v.* Kennard.

SPECIAL PAPER.

Those marked thus * are Special Cases, and thus † Demurrers.

*Smalley *v.* Blackburn Railway Co.
†Cleeve *v.* Harwar
†White *v.* Farmer
†Tompsett *v.* Gillott
*Biss & Wife *v.* Allen & an.
*Guardians of the Poor of Lichfield Union *v.* Greene
*Governor and Co. of the New River *v.* Commissioners of Land Tax of Great Amwell
†Shilling *v.* Bishop & ors.
†Cooper & an., Executors, &c. *v.* Woolfit
*Barstow *v.* Reynolds
†Barnes *v.* Hayward.

WILLIAM WHITE, New Crane Mill, Shadwell, miller, Feb. 6 at 1, and March 10 at 12, London: Off. Ass. Lee; Sols. Marten & Co., Mincing-lane.—Pet. f. Jan. 26.

JOHN ATKINSON, Queen's-gardens, and Westbourne-grove, Bayswater, builder, Feb. 11 at 2, and March 10 at 12, London: Off. Ass. Graham; Sols. Sidney & Co., 6, Barnard's-inn, Holborn.—Pet. f. Jan. 22.

JAMES OCHSE, Basinghall-street, City, dealer in French china, Feb. 6 at half-past 12, and March 13 at half-past 11, London: Off. Ass. Cannan; Sols. J. & S. Solomon, 22, Finsbury-place.—Pet. f. Jan. 16.

JOHN BUNTON COOPER and HENRY BUNTON COOPER, Bentley-place, Kingsland-road, pawnbrokers, Feb. 7 and March 13 at 11, London: Off. Ass. Cannan; Sol. Foord, Pinner's-hall, Old Broad-st.—Pet. f. Jan. 27.

ANDREW PHILLIPS, Cambridge, licensed victualler, Feb. 5 at 11, and March 5 at 1, London: Off. Ass. Bell; Sol. Laurence, 3, Cork-street, Burlington-gardens.—Pet. f. Jan. 24.

THOMAS COOK, Thorpe-le-Soken, Essex, boot maker, Feb. 5 at half-past 11, and March 5 at 2, London: Off. Ass. Bell; Sol. Jones, Colchester.—Pet. f. Jan. 23.

JAMES MARTIN and EDWIN MARKWICK, Brighton, surveyors, (trading under the style or firm of Martin & Markwick), Feb. 6 at half-past 12, and March 16 at 12, London: Off. Ass. Nicholson; Sols. Reade, Brighton; May, 67, Russell-square, London.—Pet. f. Jan. 23.

THOMAS LANE, Birmingham, japanner, Feb. 7 at half-past 11, and Feb. 26 at 10, Birmingham: Off. Ass. Whitmore; Sol. James, Birmingham.—Pet. d. Jan. 3.

JAMES WOOTTON, Leicester, builder, Feb. 10 and March 3 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Stone & Paget, Leicester; James, Birmingham.—Pet. d. Jan. 24.

RICHARD DAVIS, Cardiff, Glamorganshire, shipbroker, Feb. 9 and March 10 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Girling, Bristol.—Pet. f. Jan. 21.

FREDERICK LAWSON BANKS and ROBERT DAWSON, Sheffield, common brewers, Feb. 7 and March 21 at 10, Sheffield: Off. Ass. Brewin; Sol. Patteson, Sheffield.—Pet. d. and f. Jan. 17.

EDWARD VON DADELSZEN, Liverpool, metal broker, Feb. 11 and March 9 at 11, Liverpool: Off. Ass. Cazenove; Sol. Dodge, Liverpool.—Pet. f. Jan. 24.

JOHN GLADSTONE the younger, Liverpool, ironfounder, Feb. 6 and March 5 at 11, Liverpool: Off. Ass. Bird; Sols. Francis & Almond, Liverpool.—Pet. f. Jan. 20.

WHITAKER RILEY, Manchester, calico printer, Feb. 9 and March 9 at 12, Manchester: Off. Ass. Fraser; Sols. Sale & Co., Manchester.—Pet. f. Jan. 17.

WILLIAM RIDLEY CARR and HENRY FREDERICK SCOTT, Wallsend, Northumberland, iron manufacturers, (carrying on business with John Carr, under the style or firm of John Carr & Co.), Feb. 16 at 12, and March 18 at 11, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. T. & W. Chater, Newcastle-upon-Tyne.—Pet. f. Jan. 20.

THOMAS LAIDLER, Jarrow, Durham, coke burner, (carrying on business at Jarrow with John Carr, under the style or firm of John Carr & Co.; also carrying on business at Denton, Northumberland, with William Ridley Carr, under the style or firm of the Montague Coal Company), Feb. 16 at 1, and March 18 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. T. & W. Chater, Newcastle-upon-Tyne.—Pet. f. Jan. 20.

MEETINGS.

F. H. Ward, High-street, Whitechapel, tallow chandler, Feb. 12 at 1, London, last ex.—*James Wakinshaw*, Monkwearmouth, Sunderland, Durham, iron manufacturer, Feb. 11 at half-past 11, Newcastle-upon-Tyne, last ex.—*J. Barfoot*, North Stoneham, Hampshire, cattle salesman, Feb. 14 at 12, London, aud. ac.—*Edward Pollack*, Fieldgate-street, Middlesex, sugar refiner, Feb. 10 at 3, London, aud. ac.—*Charles Jones*, Gloucester, sail maker, Feb. 26 at 11, Bristol, aud. ac.—*Wm. J. Beeman* and *R. P. Lewis*, St. Catherine's, Somersetshire, hide dealers, Feb. 26 at 11, Bristol, aud. ac.—*Sarah Wooldridge*, Winchester, butcher, Feb. 17 at 2, London, div.—*Ebenezer Heath*, Newington-causeway, leather seller, Feb. 17 at 11, London, div.—*James Harrison*, London, commission agent, Feb. 17 at 2, London, div.—*William Fitch*, Old Fish-street-hill, Upper Thames-street, wholesale stationer, Feb. 17 at 11, London, div.—*R. J. Maddren*, Great Russell-street, Bloomsbury, licensed victualler, Feb. 17 at 11, London, div.—*Wm. J. Robson*, Bowling-green-mews, Kennington Oval, antimony smelter, Feb. 17 at 11, London, div.—*J. Symes*, *E. B. Symes*, and *R. Raper*, Strand, electro platers, Feb. 17 at 12, London, div.—*J. Dawson*, High-street, Shadwell, tobacconist, Feb. 18 at half-past 12, London, fin. div.—*John Ledward* the younger, Gorton, Lancashire, cotton manufacturer, Feb. 10 at 12, Manchester, aud. ac.; Feb. 17 at 12, div.—*Wm. Clayton*, Langcliffe, Yorkshire, *Wm. Clayton*, Lostock, Walton-le-Dale, and *Wm. Wilson*, Preston, Lancashire, bankers, Feb. 20 at 12, Manchester, aud. ac.; Feb. 27 at 12, div.—*Wm. Rumsey*, Coventry, tailor, Feb. 20 at half-past 11, Birmingham, div.—*Edmund English* and *Edmund F. English*, Bath, auctioneers, Feb. 26 at 11, Bristol, fin. div.—*John Baker*, Woodlands, Blagdon, Somersetshire, scrivener, Feb. 19 at 11, Bristol, div.—*David Lansley*, Bath, publican, Feb. 26 at 11, Bristol, first and fin. div.—*Richard William Johnson*, Gloucester, wine merchant, Feb. 26 at 11, Bristol, fin. div.—*Robert Clark*, Liverpool, miller, Feb. 19 at 11, Liverpool, fin. div.—*John Clay*, South Shields, ale merchant, Feb. 20 at 11, Newcastle-upon-Tyne, div.—*John Haldane*, Leeds, corn factor, Feb. 19 at 11, Leeds, div.—*J. Richardson*, Whitby, Yorkshire, stationer, Feb. 19 at 11, Leeds, div.—*Sarah Ratcliffe*, *Benjamin Ratcliffe*, and *James Ratcliffe*, Boxtrees Mills, Ovenden, Halifax, Yorkshire, manufacturers, Feb. 19 at 11, Leeds, div.—*James Mackenzie* and *Stephen Cotton*, Leeds, machine makers, Feb. 19 at 11, Leeds, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Charles Pearson, Park-street, Camberwell, and Lime-street, London, shipowner, Feb. 17 at half-past 11, London.—*F. T. Hunt*, Watling-street, warehouseman, Feb. 19 at half-past 12, London.—*Charles Van Lohe*, Bread-street, woollen warehouseman, Feb. 20 at 11, London.—*Morris Barnett*, Ramsgate, jeweller, Feb. 18 at 12, London.—*Abraham Scott*, Manchester, ironmonger, Feb. 18 at 12, Manchester.—*James Reid*, Liverpool, tailor, Feb. 19 at 11, Liverpool.—*Richard Berry*, Ormskirk, Lancashire, innkeeper, Feb. 19 at 11, Liverpool.—*Thomas Bale*, Kidderminster, Worcestershire, builder, Feb. 26 at 10, Birmingham.

To be granted, unless an Appeal be duly entered.

William Hinman, Lamb's Conduit-street, Theobald's-road, licensed victualler.—*Louis Delorme*, Broad-street-buildings, City, merchant.—*J. Bretz*, Trinity-square, Tower-hill, licensed victualler.—*Morton A. Edwards*, Dean-street, Soho, sculptor.—*Charles Wilkins* and *Wm. Wilkins*, Chipping Lambourne, Berkshire, builders.—*Matthew J. Popplewell*, Clement's-lane, City, merchant.—*J. Harrison*, Southport, Lancashire, coffee-house keeper.—*James Buxton*, Leavengreave, Spotland, Rochdale, Lancashire, cotton spinner.—*Robert Ingham*, Hamer Bottoms, near Rochdale, Lancashire, cotton manufacturer.

PETITION ANNULLED.

Henry E. Fellinger, Regent-square, flour merchant.

SCOTCH SEQUESTRATION.

James Calder, Brechin, draper.

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed Thomas William Tahourdin Cooke, Gent., of Wokingham, Berkshire, to be a Commissioner to administer oaths in the High Court of Chancery in England.

BURTON ON REAL PROPERTY.—EIGHTH EDITION.
This day is published, price 1*l.* 4*s.* cloth,

AN ELEMENTARY COMPENDIUM of the LAW of REAL PROPERTY. By W. H. BURTON, Esq. With Notes, shewing the Alterations in the Law to the present time. To which is now prefixed an Introductory Chapter, giving a concise Historical Outline of such Parts of the Law as have been the subject of Statutory Alteration. By EDWARD PRIESTLEY COOPER, Esq., Barrister at Law.

Stevens & Norton, 26, Bell-yard, Lincoln's-inn.

JARMAN ON WILLS.
In 2 vols. royal 8vo., price 3*l.* 3*s.* cloth boards,

A TREATISE on WILLS. By THOMAS JARMAN, Esq. The Second Edition. By E. P. WOLSTENHOLME, M. A., and S. VINCENT, B. A., of Lincoln's-inn, and the Inner Temple, Barristers at Law.

H. Sweet, 3, Chancery-lane, Fleet-street.

REPORT of SPECIAL GENERAL MEETING of the BANK of LONDON.

Head Banking-house—Threadneedle-street.
Charing-cross Branch—No. 450, West Strand.

At a SPECIAL GENERAL MEETING of the SHAREHOLDERS held at the London Tavern, Bishopsgate-street, on Monday, the 26th January, 1857, present—

Sir JOHN VILLIERS SHELLEY, Bart., M.P., in the Chair.
JOHN GRIFFITH FRITH, Esq., Vice-Chairman.

DIRECTORS.

John Edmund Anderdon, Esq.
Col. William Elsey, H.E.I.C.S.
Thomas Gooch, Esq.
Jeremiah Greatorex, Esq.
Alex. Constantine Ionides, Esq.
Thomas Luce, Esq., M.P.
Henry Morris, Esq.
Sir Henry Muggeridge, Ald.
Alfred Wilson, Esq.

Matthew Marshall, jun., Esq., Manager.

And one hundred and three Proprietors.

The following Report was read by the Secretary:—

The Deed of Settlement of the Bank contemplates one ordinary General Meeting annually, which the Proprietors have already determined shall be held after the close of the financial period, ending on the 30th of June in each year; but your Directors, considering recent circumstances, have thought it desirable to call the Proprietors together on the present occasion of the declaration of a Dividend, believing that opportunities for intercourse between Directors and Shareholders should be encouraged, as conducive to mutual confidence.

The account of Liabilities and Assets, as vouched by the Auditors, shews a balance standing to credit of "Profit and Loss," on the 31st December last, of 16,904*l.* 9*s.* 11*d.*, after payment of the sum of 20,238*l.* 12*s.* to customers for interest on their balances. The Directors, having fully considered the provision to be made for bad and doubtful debts and other contingencies, have decided to declare a Dividend for the half-year at the rate of 5*l.* per cent. per annum, (free of income tax), reserving a complete settlement of profit and loss until after the 30th of June next, as originally determined.

It will be seen that the profits for the past half-year have not been proportionate to the business acquired, and it should be stated in explanation, that during that period the Directors, as administering the affairs of a Bank so recently established, have felt it their duty to make sacrifices to security at the expense of temporary profit, by keeping in hand ample available funds, and by the realisation of securities at a depreciation, acting under the conviction, that during a period of monetary pressure and general mistrust, they by such a course best consulted the interests of the Proprietors, and laid the surest basis for future prosperity.

Notwithstanding the operation of exceptional circumstances upon immediate profit, the Bank has since the date of the last Report advanced steadily, and without intermission, in the acquisition of business. Current accounts in particular, which are the chief source of profit, have increased 33 per cent. in number, and 29 per cent. in amount of balances; and the Directors are fully justified in asserting that the progress of the undertaking has been substantial, and that its prospects are highly satisfactory.

The building expenses have been slightly augmented by the purchase of the lease and adaptation of the premises adjoining the Charing-cross Branch, a step rendered necessary by the rapidly increasing business of that establishment. On the other hand, the Directors have the satisfaction to report that they have made arrangements with respect to that portion of the premises in the City not required for business purposes, upon advantageous terms.

The Bank was admitted to the facilities of the Clearing-house on the 1st October last.

Your Directors again acknowledge with satisfaction the support they have received from the Shareholders in the introduction of business, and they rely with confidence on their continued co-operation to maintain and improve the important position which the Bank now occupies.

BANK OF LONDON.

Liabilities and Assets.—31st December, 1856.

Dr.						
To capital paid up				£300,000	0	0
To reserve fund				8,000	0	0
To amount due by the Bank on current and deposit accounts				1,256,624	16	11
To amount carried to credit of "profit and loss" account, (after payment to customers of 20,238*l.* 12*s.* for interest on their balances)				16,904	9	11
				£1,581,529	6	10
Cr.						
By investments, viz.—						
In Government securities	£254,333	6	2			
In other securities	24,587	18	7			
In freehold premises, Threadneedle-street	65,000	0	0			
				343,921	4	9
By cash in hand, at the Bank of England, and at call				190,315	1	7
By bills discounted, loans, &c.				1,031,421	12	4
By building expenses, furniture, fittings, &c., Threadneedle-street and Charing-cross	£9,084	13	1			
By preliminary expenses, viz. deed of settlement, charter, advertising, &c.	6,786	15	1			
				15,871	8	2
				£1,581,529	6	10

(Signed) JOHN JOHNSON, ROBERT PORTER, GEORGE THOMSON, } Auditors.

Examined and approved, Jan. 20, 1857.

The Report having been read—

It was moved by the Chairman, seconded by the Vice-Chairman, and resolved unanimously,

That the Report now read be received and printed, and a copy sent to each proprietor.

The Chairman announced that the dividend would be payable on Monday, the 2nd February, at the Head Office in Threadneedle-street.

It was moved by Henry Nicholson, Esq., seconded by W. G. B. Gunton, Esq., and resolved unanimously,

That the thanks of the Proprietors, together with the expression of their entire confidence, be tendered to the Board of Directors, the Manager, and officers of the Bank.

Resolved unanimously—That the thanks of this Meeting be given to Sir John Villiers Shelley, Bart., M.P., for his able and courteous conduct in the Chair.

Extracted from the Minutes,
BENJAMIN SCOTT, Secretary.

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JAMES BUTCHER, Church-street, Hackney, licensed victualler, Feb. 10 at 1, and March 10 at 2, London: Off. Ass. Lee; Sol. Chidley, 10 Basinghall-street.—Pet. f. Jan. 28.

JOHN ADOS PERVANOGLU, Union-court, Old Broad-street, merchant, Feb. 13 at 1, and March 18 at half-past 1, London: Off. Ass. Nicholson; Sols. J. & T. Gole, 49, Lime-street, City.—Pet. f. Jan. 28.

JOSEPH THOMAS LAWRENCE, Shoreditch, upholsterer, Feb. 13 and March 18 at 12, London: Off. Ass. Pennell; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. Jan. 27.

ELEANOR PORTER, Newmarket, Suffolk, grocer, Feb. 13 at 12, and March 20 at 1, London: Off. Ass. Whitmore; Sol. Richardson & Sadler, 14, Old Jewry-chambers, Old Jewry.—Pet. f. Jan. 28.

WILLIAM WOODS, Union-street, Southwark, hook-and-eye manufacturer, Feb. 10 at half-past 1, and March 10 at 12, London: Off. Ass. Stansfeld; Sols. Turner & Son, 8, Mount-place, Whitechapel-road.—Pet. f. Jan. 26.

WILLIAM WHITE, Shadwell, miller, Feb. 6 at 1, and March 10 at 12, London: Off. Ass. Lee; Sols. Marten & Co., (and *not* Martin & Co., as previously advertised), Mincing-lane.—Pet. f. Jan. 26.

GEORGE BASKERVALLE, Talk-on-the-Hill, Staffordshire, innkeeper, Feb. 13 and March 6 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham.—Pet. d. Jan. 29.

WILLIAM BURT, St. Stephens by Launceston, Cornwall, builder, Feb. 10 and March 5 at 1, Exeter: Off. Ass. Hirtzel; Sols. Gurney & Co., Launceston; Stogdon, Exeter.—Pet. f. Jan. 29.

JAMES FELL, Liverpool, wholesale tea dealer, Feb. 23 and March 16 at 11, Liverpool: Off. Ass. Morgan; Sol. Duke, Liverpool.—Pet. f. Jan. 26.

JOHN JONES, Preston, Lancashire, tailor, Feb. 16 and March 2 at 12, Manchester: Off. Ass. Fraser; Sols. Bray & Gilbertson, Preston; Rowley & Son, Manchester.—Pet. f. Jan. 23.

EDWARD CROWTHER, Manchester, merchant, (trading under the style or firm of E. Crowther & Co.), Feb. 13 and March 6 at 12, Manchester: Off. Ass. Hernaman; Sols. Boote & Jellicorse, Manchester.—Pet. f. Jan. 26.

WILLIAM DOEG and JOHN SKELTON, Newcastle-upon-Tyne, timber merchants, (trading under the style or firm of Doeg & Skelton), Feb. 11 at 11, and March 11 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. T. & W. Chater, Newcastle-upon-Tyne.—Pet. f. Jan. 16.

Meetings.

Richard Cowper Steele, Fenchurch-street, City, merchant, Feb. 10 at half-past 1, London, last ex.—*Nathaniel Elliott*, Manchester, dealer in cigars, Feb. 12 at 1, Manchester, last ex.—*Anton Leo*, Jeffrey-square, St. Mary Axe, City, merchant, Feb. 11 at half-past 12, London, aud. ac.—*Marmaduke Irish*, Maidenhead, Berkshire, licensed victualler, Feb. 10 at half-past 12, London, aud. ac.—*Richard John Maddren*, Great Russell-street, Bloomsbury, licensed victualler, Feb. 17 at 11, London, aud, ac.—*John Wilkinson*, Sittingbourne, Kent, railway contractor, Feb. 10 at 1, London, aud. ac.—*Charlotte Robertson*, Brook-street, Ratcliff, licensed victualler, Feb. 14 at 1, London, aud. ac.—*Samuel Adams*, Ware, Hertfordshire, banker, Feb. 12 at 2, London, aud. ac.—*Gustav Hasse*, Railway-place, Fenchurch-street, City, merchant, Feb. 12 at half-past 1, London, aud. ac.—*Robert Atmore*, Gaywood, Norfolk, miller, Feb. 11 at 11, London, aud. ac.—*James Stevenson*, Wandsworth-road, Surrey, brewer, Feb. 11 at half-past 11, London, aud. ac.—*Charles Oswald Robson*, Belmont-wharf, York-road, King's-cross, wharfinger, Feb. 11 at 11, London, aud. ac.—*Joan Jones*, Aberystwith, Cardiganshire, draper, March 5 at 11, Bristol, aud. ac.—*Alfred Burrows*, Mill-end, near Stockport, Cheshire, silk manufacturer, Feb. 9 at 12, Manchester, aud. ac.—*William Clarke*, Altrincham, Cheshire, joiner, Feb. 11 at 12, Manchester, aud. ac.—*John Richardson* the younger, Cockermouth, Cumberland, common brewer, Feb. 13 at 12, Newcastle-upon-Tyne, aud. ac.—*John Heron Mason*, Blaydon, Durham, glass-bottle manufacturer, Feb. 13 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Moses Lipman*, Liverpool, tailor, Feb. 12 at 11, Liverpool, aud. ac.—*Richard Berry*, Ormskirk, Lancashire, innkeeper, Feb. 20 at 11, Liverpool, aud. ac.—*Robert Saul* and *Thomas Kirby*, Preston, Lancashire, joiners, Feb. 12 at 12, Manchester, aud. ac.—*William Dixon* and *George Middleton*, Morley, Yorkshire, dyers, Feb. 23 at 11, Leeds, aud. ac.—*Samuel Parkinson Muff*, Westgate-hill, near Bradford, Yorkshire, currier, Feb. 23 at 11, Leeds, aud. ac.—*Charles Saxon Hooper* and *Ralph Addison*, Lawrence-Pountney-lane, City, merchants, Feb. 23 at 11, London, div.—*James Worthington Maude*, Nicholas-lane, Lombard-street, City, and Commercial-road, Limehouse, and Wharf-road, City-road, Middlesex, lighterman, Feb. 23 at half-past 11, London, fin. div.—*William Hartz*, Mark-lane and Fenchurch-street, City, merchant, Feb. 21 at 12, London, div.—*Nils Wilhelm Wikman*, Minories, City, ship chandler, Feb. 21 at half-past 11, London, div.—*Lionel Goldsmith*, Queen-street, Cheapside, merchant, Feb. 21 at 11, London, fin. div.—*Benjamin Hayne* and *Charles Hayne*, Upper Whitecross-street, Middlesex, and Aldersgate-street, City, carpenters, Feb. 20 at half-past 1, London, div. joint est., and fin. div. sep. est. of *Benjamin Hayne*.—*Thomas Barrow*, Ashton-under-Lyne, Lancashire, innkeeper, Feb. 19 at 12, Manchester, aud. ac.; Feb. 26 at 1, div.—*Thomas Tomkinson*, Salford, Lancashire, wood turner, Feb. 23 at 12, Manchester, fin. div.—*Benjamin Holmes* and *Charles John Morris Lewis*, Birmingham, shoemakers, Feb. 21 at half-past 11, Birmingham, div.—*Thomas Watson*, Carlisle, Cumberland, currier, Feb. 24 at 12, Newcastle-upon-Tyne, fin. div.—*Thomas Howitt*, Sheffield, licensed victualler, Feb. 21 at 10, Sheffield, div.—*Wm. T. Staniforth*, Sheffield, cutlery manufacturer, Feb. 21 at 10, Sheffield, div.—*John Eyre*, Sheffield, grocer, Feb. 21 at 10, Sheffield, div.—*George Unwin*, Sheffield, scale presser, Feb. 21 at 10, Sheffield, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Wm. Phillips, Norwich, currier, Feb. 20 at 12, London.—*John Bowden*, Pullen's-row, Islington, brewer, Feb. 20 at 12, London.—*James J. Pratt*, Billiter-square, merchant, Feb. 20 at half-past 11, London.—*John Jones*, Aberystwith, Cardiganshire, draper, March 10 at 11, Bristol.—*John Clay*, South Shields, Durham, ale merchant, Feb. 20 at half-past 11, Newcastle-upon-Tyne.

To be granted, unless an appeal be duly entered.

Charles Poole, Brighton, livery-stable keeper.—*Benjamin Brett*, St. George's-street, Ratcliff-highway, and High-street, Poplar, shoe manufacturer.—*Louis Castrique*, Philpot-lane, merchant.—*Wm. Dent*, Newcastle-street, Strand, lead merchant.—*John Tanner*, Chippenham, Wiltshire, and Bath, Somersetshire, common carrier.—*Wm. Turner*, Finsbury-st., builder.—*Robert Wreford*, Exeter, attorney.—*Edw. Blake*, Kingskerswell, Devonshire, clay merchant.—*John Bourne* and *Thomas Rowson*, Macclesfield, Cheshire, silk manufacturers.—*Robert Saul*, Preston, joiner.—*Henry Mertens*, Apperley-bridge, Yorkshire, dyer.—*Gustavus H. A. Mertens*, Apperley-bridge, Yorkshire, dyer.

Petition Annulled.

John Bailey, Oakenshaw Clayton-le-Moors, Lancashire, cotton manufacturer.

Scotch Sequestrations.

Charles Brown, Edinburgh, accountant.—*Robert Thorburn*, Broxburn by Winchburgh, engineer.—*James Leadbetter*, Edinburgh, spirit merchant.

Tuesday, *Feb.* 3.

Bankrupts.

JOHN BRYAN, Dyer's-buildings, Holborn, electro plater, Feb. 13 at 12, and March 20 at 2, London: Off. Ass. Whitmore; Sol. Smith, Warwick-court, Holborn.—Pet. f. Jan. 22.

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THE JURIST.

LONDON, FEBRUARY 7, 1857.

OUR remarks in a former number upon the doctrine of the Lord Chancellor in *Scales* v. *Maude*, (6 De G., Mac., & G. 43; 1 Jur., N. S., part 1, p. 1147), viz. "*that a mere declaration of trust by the owner of property in favour of a volunteer is inoperative, and that the Court will not interfere in such a trust*," has elicited letters from two correspondents, which will be found printed in another part of this number. With regard to the first of these letters, it will be seen that the learned correspondent cites numerous recent authorities to shew that the dictum of the Lord Chancellor in that case is wholly untenable. Certainly the opinions of Sir J. Romilly, M. R., in *Beech* v. *Keep*, (18 Beav. 285; 18 Jur., part 1, p. 972); of Sir J. Stuart, V. C., in *Scales* v. *Maude*, (1 Jur., N. S., part 1, p. 535); and of Sir J. L. Knight Bruce, L. J., in *Kekewich* v. *Manning*, (1 De G., Mac., & G. 189), are in favour of the decision and doctrine of Lord Eldon in *Ex parte Pye—Ex parte Dubost*, (18 Ves. 140); but we cannot include Lord Cranworth among the number of those who have taken a view adverse to the doctrine he has recently laid down in *Scales* v. *Maude;* for although his Lordship was sitting as junior Lord Justice with Sir J. L. Knight Bruce, L. J., when *Kekewich* v. *Manning* (1 De G., Mac., & G. 189) was decided, we can scarcely by implication assume that Lord Cranworth in that case meant to do otherwise than give a general assent to the result of the judgment, rather than to adopt precisely all the propositions there enumerated. The learned writer also suggests that probably *all* the reporters misapprehended his Lordship's expressions.

Now, on referring to the different reports of the case, it appears that *all* the reporters substantially agree in attributing to his Lordship the dictum of which we complain. (See Weekly Rep. 1855-6, 109; 26 Law T. 131; 25 L. J., Ch., 433). And this universal concurrence amongst the reporters is a strong reason for believing that his Lordship actually said what he has been reported to have said; and the fact that the dictum complained of occupies a prominent place in the marginal note of the authorised report, and which, if submitted to his Lordship, (as is supposed to be generally the case with the authorised reports previous to publication), could not possibly have escaped his observation, compels us to arrive at the conclusion that his Lordship both said and meant to say what has been attributed to him by *all* the reporters.

The learned conveyancer by whom the second letter is written seems rather inclined to support the Lord Chancellor's opinion, or at all events considers that more extensive discussion is necessary before the doubts arising upon it can be considered as set at rest. He appears to think "that the leading case of *Ex parte Pye* (18 Ves. 140) was decided upon the ground that there was a complete transfer of the legal ownership;" and he refers to *Cotteen* v. *Missing*, (1 Mad. 185); *Ellison* v. *Ellison*, (6 Ves. 662); *Pulvertoft* v. *Pulvertoft*, (18 Ves. 99); *Colman* v. *Sarrel*, (1 Ves. jun. 54); *Edwards* v. *Jones*, (1 My. & C. 237); and *Jefferys* v. *Jefferys*, (Cr. & Ph. 141), as either confirming or not being inconsistent with his views.

With deference to the learned writer, we think that he has not taken a correct view of the grounds of the decision of Lord Eldon in *Ex parte Pye—Ex parte Dubost*, (18 Ves. 140). In that case the testator, M., wrote a letter to Dubost in Paris, authorising him to purchase in France an annuity of 100*l.* for M. G. for her life, and to draw upon him for 1500*l.* on account of such purchase. Dubost purchased the annuity; but as M. G. was married and deranged, he did so in the name of M. Afterwards, on the 10th June, 1808, M. sent to Dubost, at his desire, a power of attorney, authorising him to transfer to M. G. the annuity. M. died in June, 1809, and his death became known to Dubost in November, 1809. Dubost had, however, on the 21st October, 1809, in ignorance of M.'s death, acted upon the power of attorney, and transferred the annuity to M. G. In support of the gift of the annuity to M. G. it was argued, first, upon the finding of the Master, that according to the law of France, if an attorney be ignorant of the death of the person who has given the power of attorney, whatever he has done while ignorant of such death is valid, and that consequently there was a complete legal transfer of the annuity; and, secondly, assuming that there had been no legal transfer of the annuity, there had been a sufficient declaration of trust on the part of M., and such as a Court of equity would enforce. Now, it is clear that Lord Eldon determined the case upon the second point solely. "The question," said his Lordship, "involves not only the construction of the French law, and the point whether it has been sufficiently investigated, but further, *whether the power of attorney amounts here to a declaration of trust.* It is clear that this Court will not assist a volunteer; *yet if the act is completed,* though voluntary, the Court will act upon it. It has been decided, that upon an agreement to transfer stock this Court will not interpose; *but if the party had declared himself to be the trustee of that stock, it becomes the property of the cestui que trust, without more, and the Court will act upon it.*" On a subsequent day, having taken time to consider the question, his Lordship said, "With regard to the French annuity, the Master has stated his opinion as to the French law, perhaps without sufficient authority, or sufficient inquiry into the effect of it as applicable to the precise circumstances of this case; *but it is not necessary to pursue that,* as, upon the documents before me, it does appear *that though, in one sense, this may be represented as the testator's personal estate,* yet he has committed to writing what appears to me *a sufficient declaration that he held this part of the estate in trust for the annuitant.*"

It seems to us, therefore, to be clear that Lord Eldon decided this question, not upon the ground of there having been a transfer of the annuity to the donee, but solely upon the ground that the donor had declared himself to be a trustee of it for her; and deciding it upon the latter ground, it was, as he observed, "not necessary to pursue" the question, how far the transfer was valid or not.

With regard to the cases of *Colman* v. *Sarrel*, *Ellison* v. *Ellison*, and *Pulvertoft* v. *Pulvertoft*, they might at first sight appear to confine the power of the Court of Chancery to the enforcing of voluntary trusts in those cases where there has been an actual transfer of the subject-matter of the gift; but on further examination they are clearly consistent with the doctrine and decision of Lord Eldon in *Ex parte Pye—Ex parte Dubost.* In *Colman* v. *Sarrel*, (1 Ves. jun. 50), where stock had been assigned by a deed in trust for A. and her children as she should appoint, with a covenant that the donor would pay the dividends and interest to the children as A. should appoint, Lord Thurlow said—"Where a deed is not sufficient, in truth, to pass the estate out of the hands of the conveyer, but the party must come into equity, the Court has never yet executed *a voluntary agreement.* To do so would be to *make* him who does not sufficiently convey, and his executors after his death, trustees for the person to whom he has so defectively conveyed; and there is no case where a *Court of equity has ever done that.* Whenever you come into equity to *raise* an interest by way of trust, you must have a valuable, or at least a meretorious, consideration."

Now, it will be observed, in this case the question was, whether equity would carry into effect an imperfect assignment, or covenant to transfer, and not whether it would carry into effect a trust declared by the donor himself; and Lord Thurlow, in cautious language, does not suggest that the Court will not execute a trust when it has been declared or raised by the donor *himself*, but that the Court will not take upon *itself*, in the case of a mere imperfect conveyance or agreement, to *raise* a trust for a volunteer.

The distinction taken by Lord Eldon in *Ellison* v. *Ellison* (6 Ves. 662) is merely founded upon *Colman* v. *Sarrel.* "If," said his Lordship, "you want the assistance of the Court to constitute you cestui que trust, and the instrument is voluntary, you shall not have that assistance for the purpose of constituting you cestui que trust, as upon a covenant to transfer stock, &c. If it rest in covenant, and is purely voluntary, this Court will not execute that voluntary covenant; but if the party has completely transferred stock, &c., though it is voluntary, yet, the legal conveyance being effectually made, the equitable interest will be enforced by this Court." The same remark applies to what Lord Eldon says in *Pulvertoft* v. *Pulvertoft*, (18 Ves. 99), where he observes, that "where an actual trust is created the Court takes jurisdiction." It is true that he there gives, as an instance of an actual trust, the case of an actual transfer, but he does not limit an actual trust to the case of an actual transfer. What his Lordship means by an actual trust in former cases will be best explained by what he says in *Ex parte Pye—Ex parte Dubost*, where the occasion arose, which had not arisen in the previous cases, for a more complete definition, and for a further illustration of the subject.

In *Cotteen* v. *Missing*, (1 Mad. 176), Sir T. Plumer, V. C., decided against the gift, upon the ground that "certain letters did not, as in *Ex parte Pye—Ex parte Dubost*, amount to a declaration of trust," in which case, he observed, "the gift was complete." (See pp. 184, 185).

The remark of Lord Cottenham in *Jefferys* v. *Jefferys* (Cr. & Ph. 141) appears to have little bearing upon the subject. The real question in all these cases is, whether by a complete act a trust has been created, and the relation of trustee and cestui que trust constituted between the parties. One mode, doubtless, of doing so is by an actual transfer of property to trustees for volunteers. Another mode is by the donor declaring himself to be a trustee for them. In each case equally a Court of equity is not called upon to do anything to *raise* a trust; each is of itself perfect already. That such was

Lord Eldon's opinion in *Ex parte Pye—Ex parte Dubost*, and that it is nowhere contradicted in other cases decided by him, is, as we think we have shewn, abundantly clear; and the great majority of subsequent equity judges appear to agree with him.

The principles laid down by Lord Eldon in *Ex parte Pye—Ex parte Dubost* were certainly approved of by Sir J. Wigram, V. C., than whom a more accurate and painstaking judge never sat upon the bench. His Honor, in the well-considered case of *Meek* v. *Kettlewell*, (1 Hare, 469), observes, with reference to this question, "that where a trust is actually created in favour of a volunteer, a Court of equity will enforce its execution, although it will not lend its aid to enforce a voluntary agreement. And according to Lord Eldon's decision in *Ex parte Pye—Ex parte Dubost*, a party may so constitute *himself a trustee* that a Court of equity will execute the trust in favour of a volunteer." And after citing the passage from *Ex parte Pye—Ex parte Dubost* which we have before given, and stating that the cases of *Colman* v. *Sarrel*, *Ellison* v. *Ellison*, and *Pulvertoft* v. *Pulvertoft* might not go further than to establish, "that where the legal interest in property is transferred or acquired in pursuance and in execution of an antecedent agreement or direction leading the uses or trusts of that property, or as part of the transactions creating the trust, the Court will execute the trust, though voluntary," his Honor added, "There does not, however, appear to be any reason why the doctrine of the Court should be so confined, provided the trust is actually created, and the relation of trustee and cestui que trust established between the parties. The language of Lord Eldon in the passage I have cited is not so limited; and since the late cases of *Wheatley* v. *Purr* (1 Kee. 551) and *Coltman* v. *Pattrick*, (2 Kee. 123), I conclude that Lord Langdale takes a similar view of the subject. The question must be simply this—*whether the relation of trustee and cestui que trust has been actually established or not*."

We do not for a moment contend, that where there has been a mere agreement, or an ineffectual attempt by the donor to transfer property to volunteers, or trustees for them, (not amounting, as in *Ex parte Pye—Ex parte Dubost*, to a declaration of trust), a Court of equity can interfere. But between such cases, and cases where the donor declares himself to be a trustee, there is a clear and well-defined distinction, which, even if it were not well founded, it is dangerous to shake, after it has been so long established and so frequently acted upon.

Correspondence.

TO THE EDITOR OF "THE JURIST."

Sir,—In your number of Jan. 17 (p. 3) the authority of several eminent judges is adduced for the purpose of shewing that a dictum ascribed to Lord Cranworth in the report of *Scales* v. *Maude*, (6 De G., Mac., & G. 43; 1 Jur., N. S., part 1, p. 1147), viz. "Mere declaration of trust by the owner of property in favour of a volunteer is inoperative, and this Court will not interfere in such a trust," is wholly untenable. I beg to subjoin a few very recent authorities, including that of Lord Cranworth himself, in favour of your argument. Probably all the reporters misapprehended his Lordship's expressions in *Scales* v. *Maude*.

Your obedient servant,

W.

In *Kekewich* v. *Manning*, (1 De G., Mac., & G. 189), Sir J. L. Knight Bruce, L. J., remarked—"But whatever rule there may be against volunteers, it does not apply to the case of one, who in the language of this Court is termed a cestui que trust, claiming against his trustee; for that which is considered by this jurisdiction a trust may certainly be created gratuitously: so that the absence of consideration for its creation is in general absolutely immaterial." And p. 195—"Having, with my learned brother's concurrence, made these remarks on his behalf as well as my own, I proceed" &c. Lord Cranworth was then the junior Lord Justice.

In *Beech* v. *Keep*, (18 Jur., part 1, p. 972; 18 Beav. 285), Sir J. Romilly, M. R., said—"If a person possessed of stock execute a declaration of trust in favour of a volunteer, he would, I apprehend, clearly constitute himself a trustee for the volunteer, and equity would execute the trust."

In *Scales* v. *Maude*, (1 Jur., N. S., part 1, p. 535), Sir J. Stuart, V. C., said—"If there be a complete and perfect declaration of trust, in plain and distinct words, by a party entitled to declare it, so as to have an immediate effect as a declaration of trust, when that occurs the Court is bound to give it effect."

In *Donaldson* v. *Donaldson*, (1 Jur., N. S., part 1, p. 12), Sir W. P. Wood, V. C., said—"Wherever there is a complete declaration of trust by a party of any stock or chose in action which is invested in his own name, the Court will interfere to assist the parties interested under that declaration in carrying it into effect."

TO THE EDITOR OF "THE JURIST."

Sir,—In your number of this day appears a leading article on the interesting subject of voluntary trusts; and I submit that the subject requires a much more extensive discussion in your valuable periodical, whereby the doubts arising upon it may be in some measure, if not altogether, set at rest. Time will not permit me to enter into the discussion properly myself; but I would submit for your consideration, and that of your readers, that the leading case of *Ex parte Pye*, (18 Ves. 140), quoted in the article in question, was decided upon the ground that there was a complete transfer of the legal ownership, as appears from the case itself, and the subsequent case of *Cotteen* v. *Missing*, (1 Mad. 185); and that Lord Eldon's observations in *Ex parte Pye*, quoted in the article, had nothing to do with the facts, and must be taken in connexion with observations from him of a similar character in *Ellison* v. *Ellison* (6 Ves. 662) and *Pulvertoft* v. *Pulvertoft*, (18 Ves. 99), founded on *Colman* v. *Sarrel*, (1 Ves. jun. 54), in all which, I submit, legal creation of the trust is clearly intended. I submit also that Lord Cottenham's observations in *Edwards* v. *Jones*, (1 My. & C. 237), referred to in the article, are quite consistent with this view; or, at least, must be taken in connexion with his observations in *Jefferys* v. *Jefferys*, (Cr. & Ph. 141), which seem to me quite to confirm that view. The recent case of *Trimmer* v. *Danby* (before Sir R. T. Kindersley, V. C.) should also be considered. The fact is, the matter requires thorough consideration upon principle.

I remain, Sir,
Your obedient servant,
A Conveyancing Barrister.

Lincoln's Inn, Jan. 17, 1857.

REGULÆ GENERALES.

ORDER OF COURT.—*Jan.* 30, 1857.

WHEREAS of late years various alterations have taken place in the practice and procedure of the Court of Chancery, whereby certain of the fees heretofore allowed to the solicitors of the Court have ceased, and others of such fees have become inapplicable to the duties which the solicitors have to perform, and it is desirable that a new and revised list of fees should be made:

Now, upon consideration thereof,

The Right Hon. ROBERT MONSEY Lord CRANWORTH, Lord High Chancellor of Great Britain, with the advice and assistance of the Right Hon. Sir JAMES LEWIS KNIGHT BRUCE and the Right Hon. Sir GEORGE JAMES TURNER, the Lords Justices of the Court of Appeal in Chancery, the Hon. the Vice-Chancellor Sir RICHARD TORIN KINDERSLEY, the Hon. the Vice-Chancellor Sir JOHN STUART, and the Hon. the Vice-Chancellor Sir WILLIAM PAGE WOOD, doth order and direct as follows:—

1. The several Orders and parts of Orders following are discharged, so far as regards all costs incurred subsequent to the time when this Order comes into operation:

The Order of the 26th February, 1807, except so much thereof as is mentioned in the Second Schedule hereto.

The Sixth Schedule to the Order of the 26th October, 1842.

The 121st section of the Order of the 8th May, 1845.

So much of the 33rd section of the Order of the 22nd April, 1850, as relates to the fees to be charged by and allowed to solicitors.

The 4th section of the Order of the 7th August, 1852, and the Schedule A. appended to such Order.

The 5th section of the Order of the 23rd October, 1852.

2. Solicitors are to be entitled to charge and be allowed the fees set forth in the column headed "Lower Scale" in the First Schedule hereto, in the several cases following, unless the Court shall make order to the contrary; that is to say—

First, in all suits by creditors, legatees, (whether specific, pecuniary, or residuary), devisees, (whether in trust or otherwise), heirs at law or next of kin, in which the personal or real, or personal and real estate for or against or in respect of which, or for an account or administration of which, the demand may be made, shall be under the amount or value of 1000*l*.

Secondly, in all suits for the execution of trusts in which the trust estate or fund shall be under the amount or value of 1000*l*.

Thirdly, in all suits for foreclosure or redemption, or for enforcing any charge or lien, in which the mortgage whereon the suit is founded, or the charge or lien sought to be enforced, shall be under the amount or value of 1000*l*.

Fourthly, in all suits for specific performance, in which the purchase money or consideration shall be under the amount or value of 1000*l*.

Fifthly, in all proceedings under the Trustees Relief Acts, or under the Trustee Acts, or under any of such acts, in which the trust estate or fund to which the proceeding relates shall be under the amount or value of 1000*l*.

Sixthly, in all proceedings relating to the guardianship or maintenance of infants, in which the property of the infant shall be under the amount or value of 1000*l*.

Seventhly, in all proceedings by special case, and in all proceedings relating to funds carried to separate accounts, and in all proceedings under any railway or private act of Parliament, or under any other statutory or summary jurisdiction, and generally in all other cases where the estate or fund to be dealt with shall be under the amount or value of 1000*l*.

3. In all other cases solicitors are to be entitled to charge and be allowed the fees set forth in the column headed "Higher Scale" in the First Schedule hereto, unless the Court shall make order to the contrary as to all or any of the parties.

4. The fees of court, now collected by means of stamps, are to be reduced and varied as set forth in the Third Schedule hereto.

The fees set forth in the column headed "Lower Scale" in the Third Schedule hereto are to be paid in all cases in which the Lower Scale of fees is to be charged by and allowed to solicitors, under the provisions of the 2nd section of this Order; and the fees of court set forth in the column headed "Higher Scale" in the Third Schedule hereto are to be paid in all other cases.

The solicitor or party instituting any proceeding in respect of which he claims to pay the fees of court according to the Lower Scale is to file with the Clerk of Records and Writs a certificate in the form hereunder set forth, of which certificate the Clerk of Records and Writs is, at the request of any solicitor, or any party acting in person, in the suit or matter, to mark a copy.

On production of such copy of the certificate, the officers of the court are to receive and file all proceedings in the suit or matter bearing stamps according to the Lower Scale.

In any case certified for the Lower Scale of court fees, in which it shall happen that the solicitor shall become entitled to charge and be allowed according to the Higher Scale of solicitors' fees, the deficiency in the fees of court is to be made good.

In any case in which the fees of court have been paid upon the Higher Scale, and in which it shall happen that the solicitor shall become entitled to charge and be allowed only according to the Lower Scale of solicitors' fees, the excess of fees of court so paid may be allowed upon the taxation of costs, if the circumstances of the case shall, in the judgment of the Taxing Master, justify such allowance.

This Order is to come into operation on the 1st February, 1857.

Form of Certificate for paying the Lower Scale of Court Fees.

(Title of cause or matter).

I hereby certify, that, to the best of my judgment and belief, the Lower Scale of fees of court is applicable to this case. Dated &c.

A. B., Solicitor for ——.

THE FIRST SCHEDULE.

Schedule of Fees and Charges to be allowed to Solicitors.

INSTRUCTIONS.

	Lower Scale.	Higher Scale.
For claims, original summons in chambers, special cases, answers, examinations, demurrers, pleas, and exceptions	£0 13 4	£0 13 4
For bills	0 13 4	2 2 0
For amended or supplemental bill ..	0 6 8	0 13 4
For brief on moving for injunction ..	0 13 4	1 1 0
For interrogatories for examination of parties or witnesses	0 6 8	0 13 4
For special petitions	0 6 8	0 13 4
For special affidavits	0 6 8	0 6 8

	Lower Scale.			Higher Scale.		
For brief in a suit by bill, on cause coming on for hearing, to be charged on service of notice of motion for a decree, or on service of subpoena to hear judgment	£1	1	0	£1	1	0
For brief on claim, to include all observations	0	10	0	1	0	0
For ditto to move for leave to file	0	2	6	0	10	0
To defend proceedings commenced by bill, claim, special case, petition, or original summons	0	6	8	0	13	4
For instructions for order to revive, or add parties	0	6	8	0	13	4

(As to bills and answers, examinations, affidavits, and petitions, when the larger scale is applicable, in lieu of the fixed fees for instructions for and for drawing, the Taxing Master is to be at liberty to take into his consideration the special circumstances of each case, and at his discretion to make such allowances for work, labour, and expenses properly performed and incurred in or about the preparation of the bill or answer, examination, affidavit, or petition, as shall appear to him to be just, having regard to the length of the document, the nature of the suit, the interests of the parties, and the fund or person from which or by whom the costs are to be paid).

THE PREPARATION OF PLEADINGS AND OTHER DOCUMENTS.

(The Chancery folio to be 72 words, and the sheet 10 *folios).*

	Lower Scale.			Higher Scale.		
For drawing bills, special cases, answers, pleas, demurrers, exceptions, interrogatories, petitions, and affidavits, per folio	£0	1	0	£0	1	0
For ingrossing on parchment, per folio	0	0	6	0	0	6
For ditto on paper	0	0	4	0	0	4
For drawing statements and other documents for the Judge's or Master's chambers, when required, including the fair copy thereof, to leave in chambers	0	0	8			
For the like drawing when the larger scale is applicable				0	1	0
For fair copy thereof, to be left in chambers				0	0	4
For drawing all advertisements to be signed by the Master or Judge's clerk, including the attendance thereon	0	6	8	0	13	4
For drawing request to the Accountant-General to lay out cash	0	2	6	0	2	6
For ditto for every carrying over of cash or stock	0	2	6	0	2	6
For drawing caveat against signing or inrolling any decree or order	0	2	6	0	2	6
For drawing special notice of motion	0	2	0	0	5	0
Or per folio				0	1	0
For drawing a claim	1	1	0	2	2	0
For ditto at the Master's discretion				3	3	0
For drawing such observations for counsel to accompany brief (except on claims) as may be necessary and proper, per sheet				0	6	8
For drawing the brief on further consideration, per sheet	0	6	8	0	6	8
For preparing and filing replication	0	6	8	0	10	0
For drawing statement on which counsel to move for order to revive, or add parties, and copy	0	6	8	0	10	0
Or according to circumstances, at per sheet				0	6	8
For drawing petition to revive, at per folio	0	1	0	0	1	0
For drawing and copying certificate to appoint guardians ad litem	0	6	8	0	6	8
For amending each copy of a bill or claim to serve, where no reprint	0	6	8	0	13	4
For amending each brief bill or claim, where no reprint	£0	6	8	£0	13	4
For preparing an original summons for the purpose of proceedings originating in chambers	0	13	4	1	1	0
For indorsing an original summons and the copies under Order 6 of the 16th October, 1852, and attending to get same sealed	0	6	8	0	6	8
For preparing every other summons, and attending to get same filled up and sealed at chambers	0	6	8	0	6	8
If special, not to exceed				1	1	0
For drawing bills of costs, including the copy for the Master's office, per folio	0	0	8	0	0	8
For certifying proceeding under Lower Scale of court fees	0	5	0			

(The fee for drawing a document in all cases includes a copy, if required, for the use of the solicitor or client, or for the settlement of counsel).

FOR PERUSALS.

	Lower Scale.			Higher Scale.		
For perusing the print of a bill by the defendant's solicitor	1	1	0	1	1	0
If exceeding 60 folios, at per folio				0	0	4
For perusing the print of an amended bill	0	13	4	0	13	4
If amendments exceeding 40 folios, at per folio				0	0	4
For perusing an amended bill when amended in writing	0	6	8	0	6	8
If amendments exceeding 20 folios, at per folio				0	0	4
For perusing an answer	0	6	8	0	13	4
If exceeding 40 folios, at per folio				0	0	4
For perusing an examination, at per folio	0	0	4	0	0	4
For perusing all special affidavits filed by an opposing party, at per folio	0	0	4	0	0	4
For perusing copy supplemental statement, under the 15 & 16 Vict. c. 86, s. 53	0	6	8	0	13	4
For perusing copy order to revive	0	6	8	0	13	4

(The fees for perusal are not to apply where the same solicitor is for both parties).

COPIES.

	Lower Scale.			Higher Scale.		
Copies of all documents are to be at the rate of, per folio	0	0	4	0	0	4
Or per sheet of 10 folios, at	0	3	4	0	3	4

(Having regard to the preceding fees for perusal, the fee for "abbreviating" is to cease, and no close copies are now to be allowed as of course, but the allowance is to depend on the propriety of making the copy, which in each case is to be shewn and considered).

	Lower Scale.			Higher Scale.		
For examining and correcting a proof, at per folio	0	0	2	0	0	2
For each copy of a judge's summons, to leave in chambers or to serve	0	2	0	0	2	0
For each copy of a notice of motion, order, or certificate to serve	0	1	0	0	1	0
Or at per folio				0	0	4

ATTENDANCES.

	Lower Scale.			Higher Scale.		
For attending on a Master's warrant	0	6	8	0	6	8
Or according to circumstances, not to exceed, per diem	2	2	0	2	2	0
For attending each counsel with his brief, case, or abstract, in a suit or other proceeding in this court	0	6	8	0	6	8
For the like, where the fee amounts to 5 guineas				0	13	4
Where it amounts to 20 guineas				1	1	0
Where it amounts to 40 guineas or upwards				2	2	0

	Lower Scale.			Higher Scale.		
For attending to present special petition, and for same answered	£0	6	8	£0	6	8
For attending to present petition for order of course, and for order ..	0	6	8 ..	0	13	4
For attendance on counsel and court on motion of course, and for order ..	0	6	8 ..	0	13	4
For attending on the day in which a cause or petition stands on the paper for hearing	0	6	8 ..	0	10	0
For attending when heard	0	13	4 ..	1	1	0
Or according to circumstances, not to exceed, per diem				2	2	0
For attending the court on every special motion, each day	0	6	8 ..	0	13	4
The like, when heard	0	13	4 ..	0	13	4
Or according to circumstances, not to exceed				1	1	0
For attending on motion for, or to discharge order for, injunction, or ne exeat, when heard, per diem ..	0	13	4 ..	1	1	0
Or according to circumstances, not to exceed				2	2	0
For attending to get answer or special affidavit sworn	0	6	8 ..	0	6	8
For attendance on the registrar for directions to the Accountant-General to sell or transfer stock	0	6	8 ..	0	6	8
For attendance on the Accountant-General thereon	0	6	8 ..	0	6	8
For attending the Accountant-General with request to lay out cash	0	6	8 ..	0	6	8
The like to carry over cash or stock to another account in his books ..	0	6	8 ..	0	6	8
For attending Accountant-General to identify a person receiving a cheque .	0	6	8 ..	0	6	8
For attending the Accountant-General with order to bespeak and afterwards to procure his directions for payment of money into court, attending at the Bank of England to pay the money, and for attending on the Accountant-General with the receipt, and at the Report Office to bespeak and to procure the office copy .	0	13	4 ..	0	13	4
Where the sum paid in shall amount to 100*l*.	1	1	0 ..	1	1	0
And where the same shall amount to 1000*l*.				2	2	0
And where the same shall amount to 5000*l*.				3	3	0
For attending the Master on signing report	0	6	8 ..	0	6	8
For attending to file report and certificates at the Report Office, and for office copy	0	6	8 ..	0	6	8
For attending examiner to procure appointment to examine witnesses ..	0	6	8 ..	0	6	8
For attending the examination of witnesses before examiner	0	6	8 ..	0	13	4
Or according to circumstances, not to exceed, per diem	1	1	0 ..	2	2	0
But if without counsel, the fee may, at the Master's discretion, be increased to	2	2	0 ..	3	3	0
For attending to settle and afterwards to read over the ingrossment of an answer or examination	0	6	8 ..	0	13	4
If the same exceed 20 folios, and under 50 folios	0	13	4 ..	1	1	0
And for each additional 30 folios ..	0	6	8 ..	0	6	8
For attending to insert an advertisement in the Gazette	0	6	8 ..	0	6	8
For entering caveat with the Clerks of Records and Writs	0	6	8 ..	0	6	8
For attending to procure certificate of a caveat	0	6	8 ..	0	6	8
For attending registrar to certify abatement or settlement of suit, and to have same so marked in the cause-book	0	6	8 ..	0	6	8
For attending the printer with a bill or claim to be printed	£0	6	8	£0	6	8
For attending to get copies of bill, claim, or interrogatories marked for service.	0	6	8 ..	0	6	8
For attending to take instructions to appear, and to enter the appearance of one or more defendants, not exceeding three	0	6	8 ..	0	6	8
If exceeding three, for every additional number not exceeding three ..	0	6	8 ..	0	6	8
For attending at chambers to get original summons and duplicate examined and sealed	0	6	8 ..	0	6	8
For attending at the Record and Writ Office to file duplicate and examine copies, and get same stamped ..	0	6	8 ..	0	6	8
For attending on a summons or other appointment, each day, a fee of 6*s*. 8*d*., 13*s*. 4*d*., or 1*l*. 1*s*., according to circumstances; each attendance to be allowed by the judge or his chief clerk. Where from the length of the attendance, or from the difficulty of the case, the judge shall think the highest of the above fees an insufficient remuneration for the services performed, or where the preparation of the case to lay it before the judge shall have required skill and labour for which no fee has been allowed, the judge may allow such further fee, not exceeding one guinea, or where the Higher Scale is applicable two guineas, as in his discretion he may think fit .	0 2	6 to 2	8 .. 0 ..	0 3	6 to 3	8 0
* (Power to increase to ten guineas, under the Order of the 2nd February, 1854).						
For perusing the affidavits of claimants coming in under Order 36 of the 16th October, 1852, and attending in chambers at the time appointed by the advertisement, where the number of claims do not exceed five	0	10	6 ..	1	1	0
Where the number exceeds five, for every additional number not exceeding five an additional sum of ..	0	10	6 ..	1	1	0
For attending for every order drawn up by the chief clerk, and at the registrar's office to get same entered ..	0	6	8 ..	0	6	8
For attending to enter claim under Order 36 of the 16th October, 1852, and to file affidavit	0	6	8 ..	0	6	8
For the plaintiff or party having the conduct of the order, attending the registrar with brief and papers to bespeak minutes or order, not being an order of course	0	6	8 ..	0	6	8
For ditto, for preparing list of evidence read, (but only when required by the registrar, and certified by him) ..	0	6	8 ..	0	6	8
Or according to length, at per folio ..				0	1	0
Attending to settle the draft or minutes of any decree or order	0	6	8 ..	0	13	4
Or at the Taxing Master's discretion, not to exceed	1	1	0 ..	3	3	0
Attending to pass any decree or order not being an order of course, including the entry thereof	0	6	8 ..	0	13	4

N.B.—The registrar will leave the order for entry.

In case the registrar shall certify that a special allowance ought to be made in respect of any unusual difficulty in settling and passing an order, the Taxing Master is to consider the same, and make such allowance to all or any of the parties as to him shall seem just.

	Lower Scale.			Higher Scale.		
For attending to procure certificate of pleadings	£0	6	8	£0	6	8
For attending to procure Accountant-General's certificate of fund in court	0	6	8	0	6	8
For attending to obtain consent of next friend to sue in his name	0	6	8	0	13	4
For attending to give consent to take answer without oath, to hear cause as short, and for other necessary or proper consents of a like nature	0	6	8	0	6	8
For attending to procure such consents	0	6	8	0	6	8
For procuring certificate of counsel to mark cause short, and attending registrar thereon	0	6	8	0	6	8
For attendance to mark Master or conveyancing counsel	0	6	8	0	6	8
For attendances in consultation or in conference with counsel	0	13	4	0	13	4
For attending to set down cause or appeal for hearing	0	6	8	0	6	8
For attending to leave papers with judge's secretary prior to hearing	0	6	8	0	6	8
For attending court on appointment of a guardian ad litem	0	13	4	0	13	4
For attending to procure transcripts of Accountant-General's books, when necessary	0	6	8	0	6	8

(The fees for consent are not to apply where the same solicitor is for both parties).

WRITS.

For every writ of subpoena duces tecum	0	6	8	0	6	8
For a writ or writs of subpœna other than subpoena duces tecum, if the number of names therein shall not exceed three	0	6	8	0	6	8
If exceeding three names, for every additional number not exceeding three	0	6	8	0	6	8
For preparing every other writ without order	0	6	8	0	6	8
For every writ under order, except special injunction	0	13	4	0	13	4
For special injunction, including ingrossment and docket	0	10	0	1	0	0
Or per folio	0	1	4	0	1	4
For inrolling a decree or order	0	10	0	1	0	0
Or per folio	0	1	4	0	1	4

NOTICES AND SERVICES.

For service of a notice of motion, exclusive of copy	0	2	6	0	2	6
For notice to a solicitor of appearance, answer, demurrer, plea, amendment, and replication	0	2	6	0	2	6
For notice of claim under the 36th Order of the 16th October, 1852	0	2	6	0	2	6
For notice of evidence to be read in judge's chambers	0	2	6	0	2	6
For notice of filing affidavit or set of affidavits filed, or which ought properly to have been filed, together, to be read in court	0	2	6	0	2	6
For notice of appointment for settling and passing minutes, decrees, or orders before the registrar	0	2	6	0	2	6
For copy and service of a warrant on a solicitor	0	2	6	0	2	6
For service of a judge's summons, exclusive of the copy	0	2	6	0	2	6
For service of a petition	0	2	6	0	2	6
For service of an order, exclusive of the copy	0	2	6	0	2	6
For other necessary or proper notice	0	2	6	0	2	6

For services on a party or witness, such reasonable charges and expenses as may be properly incurred, according to distance, or by the employment of an agent.

(The fees for notices and services are not to apply where the same solicitor is for both parties, unless it be necessary for the purpose of making affidavit of service.

There is to be one notice only of settling minutes, and one notice of passing decree or order, which, if necessary, are to be continued by adjournment, of which all parties are to take notice).

OATHS AND EXHIBITS.

	Lower Scale.			Higher Scale.		
To the commissioner for oath in London, according to statute	£0	1	6	£0	1	6
In the country	0	2	6	0	2	6
To the solicitor for preparing each exhibit in town and country	0	1	0	0	1	0
The commissioner, for marking each exhibit	0	1	0	0	1	0

TERM FEE.

For a term fee in all causes, for every term in which a proceeding by the party shall take place	0	10	0	0	10	0
And for letters, per term	0	5	0	0	5	0
In country agency causes, the further fee for letters of				0	6	8

And if it be shewn to the satisfaction of the Taxing Master that the agency correspondence has been special and extensive, he is to be at liberty to make a special allowance in respect thereof.

In addition to the term fee, the necessary expense of the postage, carriage, and transmission of documents is to be allowed.

The like term fee and for letters in matters as in causes.

Where no proceeding is taken which carries a term fee, a charge for letters may be allowed, if the circumstances shall require it.

For any work or labour properly performed, and not herein provided for, such allowances are to be made as heretofore.

THE SECOND SCHEDULE,

Being that Part of the Order of the 26th February, 1807, which is not discharged or altered.

For perusing abstract, every three brief sheets	0	6	8
For perusing the draft of every deed, for each skin	0	5	0
For examining the ingrossment with the draft, for every three skins	0	10	0
For making all attested copies, examining and attesting same, per folio	0	0	6

THE THIRD SCHEDULE.

FEES TO BE COLLECTED BY MEANS OF STAMPS.

In the Judge's Chambers.

For every original summons for the purpose of proceedings originating in chambers	0	5	0	0	5	0
For every duplicate thereof	0	1	0	0	5	0
For every other summons	0	1	0	0	3	0
For every order drawn up by the chief clerk, made upon applications for time to plead, answer, or demur, for leave to amend bills or claims, or for enlarging publication or the period for closing evidence	0	1	0	0	5	0
For every other order drawn up by the chief clerk	0	10	0	1	0	0
For every advertisement				1	0	0
For every certificate or report	1	0	0	1	0	0
For every certificate upon the passing of a receiver's or consignee's account, a further fee in respect of each 100*l.* received of	0	10	0	0	10	0

	Lower Scale.			Higher Scale.		
For every oath, affirmation, declaration, or attestation upon honour ..	£0	1	6	£0	1	6
In the Masters' Offices.						
For every warrant or summons ..	0	3	0	0	3	0
For every certificate or report	1	0	0	1	0	0
For taking the acknowledgment of every married woman	1	6	8	1	6	8
For attending any court, per day, by the clerk	0	14	0	0	14	0
For every certificate upon the passing of a receiver's or consignee's account, a further fee in respect of each 100*l.* received of	0	10	0	0	10	0
In the Registrar's Office.						
For every decree or decretal order made by the Court on a special case, or on the original hearing of a cause or claim, or on motion for a decree, and on further directions, or further consideration not made on summons adjourned from chambers	1	0	0	3	0	0
For every order on petition or motion of course	0	1	0	0	5	0
For every other order	0	10	0	1	0	0
For every office copy of a decree or order, and for every office copy of a petition of appeal or rehearing made on the 3rd of the General Orders of the 25th October, 1852	0	10	0	1	0	0
Note.—The above fees are to include the charge for entry.						
In the Examiner's Office.						
For every witness sworn and examined, including oath, for each hour ..	0	5	0	0	5	0
For every witness sworn and examined away from the office, (besides coach hire and reasonable expenses) ..	1	7	0	1	7	0
If more than five miles from the Examiner's Office, for the first day ..	2	15	0	2	15	0
For every other day	2	2	0	2	2	0
Upon every application to inspect depositions, including the inspection ..	0	3	0	0	3	0
Upon every application to search book for causes, including search	0	1	0	0	1	0
Upon every application to search book for depositions, including search ..	0	1	0	0	1	0
In the Record and Writ Clerks' Office.						
For making all office and other copies, per folio	0	0	4	0	0	4
For filing every bill or information ..	0	10	0	1	0	0
For filing every claim	0	5	0	0	5	0
For filing every special case	1	0	0	1	0	0
Upon entering every appearance, if not more than three defendants	0	7	0	0	7	0
If more than three and not exceeding six defendants	0	14	0	0	14	0
And the same proportion for every like number of defendants.						
For every certificate	0	4	0	0	4	0
For marking every copy of a bill, claim, or summons to be served	0	1	0	0	5	0
For every writ of summons, distringas, subpœna, or attachment	0	5	0	0	5	0
For sealing every other writ	1	0	0	1	0	0
For every oath, affirmation, declaration, or attestation upon honour, except for the purpose of receipt of dividends from the Accountant-General .	0	1	6	0	1	6
For examining every copy or part of a copy of a set of interrogatories, and marking same as an office copy ..	0	1	0	0	5	0
Upon every application for a search for a record, and for searching	0	2	0	0	2	0
Upon every application to inspect a record, and for inspecting the same ..	0	5	0	0	5	0
Upon every application to inspect exhibits, if occupied not more than one hour	£0	5	0	£0	5	0
If more than one hour, per diem ..	0	10	0	0	10	0
Upon every application for the officer's attendance in courts of law, per diem, and for his attendance, besides reasonable expenses of the officer ..	1	0	0	1	0	0
Upon every application for the officer's attendance in a court of equity, and for his attendance, per diem ..	0	10	0	0	10	0
Upon every application to swear an invalid, including the attendance, besides necessary expenses	0	10	0	0	10	0
For examining and signing inrolments of decrees and orders	3	0	0	3	0	0
For filing caveat against claim to revive, or against decree or order or inrolment	0	5	0	0	5	0
For filing supplemental statement, or statement for revivor	0	5	0	0	10	0
For filing every affidavit, including schedules and exhibits	0	2	6	0	2	6
For every application to inspect an affidavit	0	0	6	0	0	6
For amending every record of a bill, claim, or special case	0	10	0	0	10	0
In the Taxing Master's Office.						
For every warrant or summons, (but not more than one warrant or summons is to be issued on one bill, or set of bills, unless the Taxing Master shall think it necessary to issue a new warrant or summons)	0	1	0	0	3	0
On signing every report and certificate .	0	10	0	1	0	0
Upon the taxation of every bill of costs, as taxed, where the amount shall not exceed 20*l.*	0	10	0	0	10	0
Upon every additional 20*l.* or fractional part thereof, a further fee of ..	0	10	0	0	10	0
For every oath, affirmation, or attestation upon honour	0	1	6	0	1	6
In the Lord Chancellor's Principal Secretary's Office.						
On all attendable petitions, appeals, rehearings, and letters missive ..	0	5	0	1	0	0
On all non-attendable petitions ..	0	5	0	0	10	0
On a matter of course order, on a petition of right	0	10	0	0	10	0
On an order for a commission on a petition of right	1	0	0	1	0	0
In the Office of the Secretary at the Rolls.						
On every petition set down for hearing, to include the fee on hearing ..	0	5	0	1	0	0
On the petition for every order of course	0	1	0	0	5	0
On the admission of every solicitor ..				1	17	0
In the Office of the Accountant-General.						
For preparing power of attorney, with affidavit, exclusive of stamp duty ..	0	3	0	0	3	0
Upon every application for a search ..	0	5	0	0	5	0
For transcript of accounts, each opening consisting of debtor and creditor sides of the account	0	2	0	0	2	0

CRANWORTH, C.
J. L. KNIGHT BRUCE, L. J.
G. J. TURNER, L. J.
RICHD. T. KINDERSLEY, V. C.
JOHN STUART, V. C.
WILLIAM PAGE WOOD, V. C.

ORDER OF COURT.—*Feb.* 2, 1857.

The Right Hon. ROBERT MONSEY Lord CRANWORTH, Lord High Chancellor of Great Britain, by and with the advice and consent of the Right Hon. Sir JOHN

Romilly, Master of the Rolls, the Right Hon. Sir James Lewis Knight Bruce and the Right Hon. Sir George James Turner, the Lords Justices of the Court of Appeal in Chancery, the Hon. the Vice-Chancellor Sir Richard Torin Kindersley, the Hon. the Vice-Chancellor Sir John Stuart, and the Hon. the Vice-Chancellor Sir William Page Wood, both hereby, in pursuance of the act passed in the session of Parliament holden in the fifth and sixth years of the reign of her present Majesty, intituled "An Act for abolishing certain Offices in the High Court of Chancery in England," and in pursuance and execution of all other powers enabling him in that behalf, order and direct—

That in lieu of the Order numbered 22, comprised in the General Order of the 26th October, 1842, the following order be substituted; that is to say—

Service of all writs, notices, summonses, orders, warrants, rules, documents, and other proceedings not requiring personal service upon the party to be affected thereby, shall be made before seven o'clock in the evening, except on Saturdays, when it shall be made before two o'clock in the afternoon, and if made after seven o'clock in the evening on any day except Saturdays, the service shall be deemed as made on the following day, and if made after two o'clock in the afternoon on Saturday, the service shall be deemed as made on the following Monday.

This Order is to come into operation on the 10th February, 1857.

Cranworth, C.
John Romilly, M. R.
J. L. Knight Bruce, L. J.
G. J. Turner, L. J.
Richd. T. Kindersley, V. C.
John Stuart, V. C.
W. P. Wood, V. C.

Court Papers.

EQUITY SITTINGS, AFTER HILARY TERM, 1857.

Court of Chancery.

Before the Lord Chancellor.

At Lincoln's Inn.

Monday...... *Feb.*	9	First Seal.—Appeal Motions and Appeals.
Tuesday........	10	Petitions.
Wednesday	11	Appeals.
Thursday	12	
Friday	13	
Saturday	14	
Monday........	16	
Tuesday........	17	Second Seal.—Appeal Motions and Appeals.
Wednesday	18	Appeals.
Thursday	19	
Friday	20	
Saturday	21	
Monday........	23	
Tuesday	24	
Wednesday	25	Third Seal.—Appeal Motions and Appeals.
Thursday	26	Appeals.
Friday	27	
Saturday	28	
Monday .. *March*	2	
Tuesday........	3	
Wednesday	4	
Thursday	5	Fourth Seal.—Appeal Motions and Appeals.
Friday	6	Appeals.
Saturday	7	
Monday........	9	
Tuesday........	10	
Wednesday	11	
Thursday	12	
Friday	13	Fifth Seal.—Appeal Motions and Appeals.
Saturday	14	Appeals.
Monday........	16	
Tuesday........	17	
Wednesday	18	
Thursday	19	
Friday	20	
Saturday	21	Sixth Seal.—Appeal Motions and Appeals.
Monday........	23	Appeals.
Tuesday........	24	
Wednesday	25	Petitions.
Thursday	26	Appeals.
Friday	27	
Saturday	28	

Notice.—Such days as his Lordship is engaged in hearing Appeals in the House of Lords excepted.

Before the Lords Justices.

At Lincoln's Inn.

Monday .... *Feb.*	9	First Seal.—Appeal Motions and Appeals.
Tuesday........	10	Appeals.
Wednesday	11	
Thursday	12	
Friday	13	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Saturday	14	Appeals.
Monday........	16	
Tuesday........	17	Second Seal.—Appeal Motions and Appeals.
Wednesday	18	Appeals.
Thursday	19	
Friday	20	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Saturday	21	Appeals.
Monday........	23	
Tuesday........	24	
Wednesday	25	Third Seal.—Appeal Motions and Appeals.
Thursday	26	Appeals.
Friday	27	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Saturday	28	Appeals.
Monday .. *March*	2	
Tuesday........	3	
Wednesday	4	
Thursday.......	5	Fourth Seal.—Appeal Motions and Appeals.
Friday	6	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Saturday	7	Appeals.
Monday........	9	
Tuesday........	10	
Wednesday	11	
Thursday	12	
Friday	13	Fifth Seal.—Appeal Motions and Appeals.
Saturday	14	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Monday........	16	Appeals.
Tuesday........	17	
Wednesday	18	
Thursday	19	
Friday	20	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Saturday	21	Sixth Seal.—Appeal Motions and Appeals.
Monday........	23	Appeals.
Tuesday........	24	
Wednesday	25	
Thursday	26	

Friday	27	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Saturday	28	Appeals.

Notice.—The days (if any) on which the Lords Justices shall be engaged at the Judicial Committee of the Privy Council are excepted.

Before the Right Hon. the MASTER OF THE ROLLS.

At Chancery-lane.

Monday *Feb.*	9	First Seal.—Motions.
Tuesday	10	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	11	
Thursday	12	
Friday	13	
Saturday	14	
Monday	16	
Tuesday	17	Second Seal.—Motions.
Wednesday	18	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Thursday	19	
Friday	20	
Saturday	21	General Petitions.
Monday	23	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	24	
Wednesday	25	Third Seal.—Motions.
Thursday	26	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Friday	27	
Saturday	28	
Monday *March*	2	
Tuesday	3	
Wednesday	4	
Thursday	5	Fourth Seal.—Motions.
Friday	6	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Saturday	7	
Monday	9	
Tuesday	10	
Wednesday	11	
Thursday	12	
Friday	13	Fifth Seal.—Motions.
Saturday	14	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Monday	16	
Tuesday	17	
Wednesday	18	
Thursday	19	
Friday	20	
Saturday	21	Sixth Seal.—Motions.
Monday	23	General Petitions.
Tuesday	24	Remaining Motions and Petitions, and General Paper.
Wednesday	25	
Thursday	26	
Friday	27	
Saturday	28	

Short Causes, Short Claims, Consent Causes, Unopposed Petitions, and Claims every Saturday; the Unopposed Petitions to be taken first.

Notice.—Consent Petitions must be presented, and copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard.

Before Vice-Chancellor Sir RICHARD T. KINDERSLEY.

At Lincoln's Inn.

Monday *Feb.*	9	First Seal.—Motions & General Paper.
Tuesday	10	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	11	
Thursday	12	
Friday	13	Petitions (unopposed first).
Saturday	14	Short Causes, Short Claims, & Causes.
Monday	16	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	17	Second Seal.—Motions and General Paper.
Wednesday	18	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Thursday	19	
Friday	20	Petitions (unopposed first).
Saturday	21	Short Causes, Short Claims, & Causes.
Monday	23	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	24	
Wednesday	25	Third Seal.—Motions and General Paper.
Thursday	26	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Friday	27	Petitions (unopposed first).
Saturday	28	Short Causes, Short Claims, & Causes.
Monday *March*	2	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	3	
Wednesday	4	
Thursday	5	Fourth Seal.—Motions and General Paper.
Friday	6	Petitions (unopposed first).
Saturday	7	Short Causes, Short Claims, & Causes.
Monday	9	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	10	
Wednesday	11	
Thursday	12	
Friday	13	Fifth Seal.—Motions and General Paper.
Saturday	14	Petitions, (unopposed first), Short Causes, and Short Claims.
Monday	16	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	17	
Wednesday	18	
Thursday	19	
Friday	20	
Saturday	21	Sixth Seal.—Motions and General Paper.
Monday	23	Short Causes, Short Claims, & Causes.
Tuesday	24	Petitions (unopposed first).
Wednesday	25	Remaining Motions and Petitions, and General Paper.
Thursday	26	
Friday	27	
Saturday	28	

Before Vice-Chancellor Sir J. STUART.

At Lincoln's Inn.

Monday *Feb.*	9	First Seal.—Motions and Causes.
Tuesday	10	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	11	
Thursday	12	
Friday	13	Petitions and General Paper.
Saturday	14	Short Causes and Claims, and Causes.
Monday	16	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	17	Second Seal.—Motions and Causes.
Wednesday	18	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Thursday	19	
Friday	20	Petitions in General Paper.
Saturday	21	Short Causes and Claims, and Causes.
Monday	23	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	24	
Wednesday	25	Third Seal.—Motions and Causes.
Thursday	26	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Friday	27	Petitions and General Paper.
Saturday	28	Short Causes and Claims, and Causes.
Monday *March*	2	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	3	
Wednesday	4	
Thursday	5	Fourth Seal.—Motions and Causes.
Friday	6	Petitions and General Paper.
Saturday	7	Short Causes and Claims, and Causes.
Monday	9	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	10	
Wednesday	11	
Thursday	12	
Friday	13	Fifth Seal.—Motions and Causes.
Saturday	14	Petitions, Short Causes and Claims.
Monday	16	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	17	
Wednesday	18	
Thursday	19	
Friday	20	
Saturday	21	Sixth Seal.—Motions and Causes.
Monday	23	Short Causes and Claims, and Causes.
Tuesday	24	Petitions and General Paper.

Wednesday	25	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Thursday	26	
Friday	27	
Saturday	28	

Before Vice-Chancellor Sir W. P. Wood.

At Lincoln's Inn.

Monday .... *Feb.*	9	First Seal.—Motions & General Paper.
Tuesday.........	10	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	11	
Thursday	12	
Friday	13	
Saturday	14	Petitions, Short Causes and Claims, and General Paper.
Monday.........	16	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday.........	17	Second Seal.—Motions and General Paper.
Wednesday	18	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Thursday	19	
Friday	20	
Saturday	21	Petitions, Short Causes and Claims' and General Paper.
Monday.........	23	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	24	
Wednesday	25	Third Seal. — Motions and General Paper.
Thursday	26	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Friday	27	
Saturday	28	Petitions, Short Causes and Claims, and General Paper.
Monday .. *March*	2	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday.........	3	
Wednesday	4	
Thursday	5	Fourth Seal.—Motions and General Paper.
Friday	6	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Saturday	7	Petitions, Short Causes and Claims, and General Paper.
Monday.........	9	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday.........	10	
Wednesday	11	
Thursday	12	
Friday	13	Fifth Seal.—Motions & General Paper.
Saturday	14	Petitions, Short Causes and Claims, and General Paper.
Monday.........	16	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday.........	17	
Wednesday	18	
Thursday	19	
Friday	20	
Saturday	21	Sixth Seal. — Motions and General Paper.
Monday.........	23	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday.........	24	
Wednesday	25	Petitions, Short Causes and Claims, and General Paper.
Thursday	26	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Friday	27	
Saturday	28	

Claims will be taken in precedence of the General Paper every Petition-day.

◆

EQUITY CAUSE LISTS, AFTER HILARY TERM, 1857.

, The following abbreviations have been adopted to abridge the space the Cause Papers would otherwise have occupied:—*A.* Abated—*Adj.* Adjourned—*A. T.* After Term—*Ap.* Appeal—*C. D.* Cause Day—*Cl.* Claim—*C.* Costs—*D.* Demurrer—*E.* Exceptions—*F. D.* Further Directions—*M.* Motion—*P. C.* Pro Confesso—*Pl.* Plea—*Ptn.* Petition—*R.* Rehearing—*S. O.* Stand Over—*Sh.* Short.

Before the LORD CHANCELLOR.

APPEALS.

Stephens v. Powys

Crook v. Whitley

Tempest v. Tempest.

Before the LORDS JUSTICES.

APPEALS.

Gray v. Addison

Manser v. Dix (Part heard)

Eaton v. Hazell, *Easter Term*

Denne v. Light

Westmacott v. Robins

Toovey v. Holbrooke.

Hope v. Hope (D).

Before the Right Hon. the MASTER OF THE ROLLS.

CAUSES, &c.

James v. Homes (Cause)

Newbegin v. Bell (Further consideration)

Attorney-Gen. v. Mansfield School (F D, C, 2 Ptns)

Graham v. Lee (M for decree)

Stanley v. Jackman (Cause)

Douglass v. Archbutt (Cause)

Knight v. Pocock (M for dec.)

Brocas v. Lloyd (Cause)

Burrow v. Moore (Cause)

Cowell v. Gatcombe (M for decree)

Lyon v. Lumley (Cause)

Jonassohn v. Shaw (M for decree)

Stainton v. Carron Co. (M for decree), *March* 2

Irwin v. Hamer (Cause), *Feb.* 23

Sanderson v. Bockett (Further consideration, 2 Ptns)

Green v. Nixon (M for decree)

Hart v. Horner (M for decree)

Spencer v. Pearson (M for decree)

Rawlings v. Pearson (M for decree)

Rawlings v. Rawlings (2) (Cause)

Rawlings v. Bluett (Cause)

Gibson v. Garnett (Cause)

Wilkinson v. Duncan (M for decree)

Hoskins v. Manley (Cause)

Jones v. Kilburn (M for dec.)

Elliott v. Wilson (M for dec.)

Preston v. Preston (Further consideration)

Dugard v. Rea (Cause)

Anderson v. Anderson (M for decree)

Pooley v. Warwick (M for decree)

Warwick v. Pooley (M for decree)

Healey v. M'Murray (M for decree)

Gorbell v. Davison (3) (Further consideration, Ptn)

Gully v. Cregoe (M for decree)

Wing v. Roof (Cl)

Ellis v. Baker (M for decree)

Faulkner v. Jeffery (Further consideration, M)

Knight v. Knight (M for dec.)

Blagrove v. Coore (Further consideration)

Hobman v. Clarke (Further consideration)

Meredith v. Vick (Further consideration)

Chester v. Urwick (Further consideration)

In re Reeve

Moxon v. Reeve (Further considerat.)

Maxwell v. Port Tennant Patent Steam Fuel and Coal Co. (Cause)

Fuller v. Green (F D, C)

Pollard v. Pollard (Further consideration)

Harris v. Whitaker (Cause)

Regent's Canal Co. v. Ware (M for decree)

Bell v. Strangman (Further consideration)

Green v. Hayward (F D, C)

Simpson v. Allison (Cause)

Purdue v. Sharp (Further consideration)

Hutchinson v. Kay (M for decree)

Clough v. Clough (M for dec.)

Field v. Cook (Cause)

Nosworthy v. Lewis (M for decree)

Taylor v. Williams (M for dec.)

Powell v. Heptinstall (M for decree)

Wolterbeek v. Barrow (Cause)

Richardson v. Heald (Further consideration)

Hampson v. Hampson (M for decree)

Hagyard v. Crosier (Cause)

Freeman v. Probert (Cl)

Ritchie v. Coates (Further consideration)

James v. Gibbon (4) (F D, C)

Wright v. Kirby (Further consideration)

Preston v. Webb (Further consideration)

Lawrence v. Warburton (Further consideration)

Sewell v. Cooper (Cause)

Smith v. Smith

Trinder v. Smith (Further consider.)

Bell v. Bowdler (M for decree)

Lill v. Lill (Further consid.)

Starr v. Newbery (Sp. case)

Hadwen v. Hadwen (M for decree)

Meredith v. Bevan (M for decree)

In re Hall

Hall v. Hall (Further consideration, Sum.)

Fellows v. Mew (Cause)

Blandy v. Kimber (M for dec.)

Smart v. Bradstock

Smart v. Bradley (F D, C)

Robinson v. Anderson (Further consideration).

Before Vice-Chancellor Sir RICHARD T. KINDERSLEY.

CAUSES, &c.

Perfect v. Stockwell (M for decree, part heard)

Hue v. French

French v. French (Further consider.)

Caddick *v.* Skidmore (Cause)
Moore *v.* Morris (M for dec.)
Roberts *v.* Snead } (F D, C)
Roberts *v.* Lewis }
Lee *v.* Lee (6) (F D, C)
Lee *v.* Lee (6) (F D, C)
Nokes *v.* Gibbon (Cause)
Nokes *v.* Fish (Cause)
Nokes *v.* Baker (Cause)
Ewart *v.* Williams } (E)
Williams *v.* Ewart }
Buckeridge *v.* Whalley } (Ca.)
Buckeridge *v.* Whalley }
Smith *v.* Sudlow (Cause)
Stephens *v.* Stephens (M for decree)
Stephens *v.* Stone (M for dec.)
Potter *v.* Edwards (M for decree)
Saunders *v.* Saunders (Cause)
Whatley *v.* Matthews (Further consideration)
In re Mellersh } (Further consideration) }
Stillwell *v.* Mellersh } }
Stillwell *v.* Mellersh (Cau., Ptn) }
Lilley *v.* Medlycott } (F D, C)
Lilley *v.* Lilley }
Brandon *v.* Brandon (12) (F D, C, 4 Ptns)
Cannock *v.* Jauncey (Cause) }
Cannock *v.* Higgins (M for decree) }

Watson *v.* Hanbury } (F D, C)
Watts *v.* Hanbury }
Bunny *v.* Woodham (F D, C) *Sh*
Evans *v.* Brice (Cause)
Allen *v.* Embleton } (Further consid.)
Allen *v.* Allen }
Climenson *v.* Smith (Cause)
Dawes *v.* Barnes (Cause)
Taylor *v.* Butterworth (M for decree)
Smith *v.* Kingston (Further consideration) *Sh*
Seed *v.* Lee (Cause)
Parker *v.* Parker (F D, C)
Etches *v.* Etches (Further consideration, Summons)
Foster *v.* Bonner (5) (F D, C)
Lucas *v.* Lucas (11) Further consideration) *Sh*
Harcourt *v.* Harcourt (M for decree)
Chamberlain *v.* Lee (3) (F D, C)
Wakeford *v.* Warman (M for decree)
Strangway *v.* Bishop (Cl)
Sharples *v.* Marsh (3) (Further consideration)
Ommanney *v.* M'Carogher (Further consideration)
Andrews *v.* Pugh } (Further consid.)
Andrews *v.* Sturgis }
Hurst *v.* Gregory (Sp. case).

Before Vice-Chancellor Sir J. STUART.

CAUSES, &c.

Jones *v.* Jones (M for dec.) }
Jones *v.* Jones (Cause) }
Dean *v.* Hall (6) (F D, C)
Harries *v.* Vaughan (Cause)
Stevens *v.* Jardine (M for dec.)
Kiddill *v.* Farnell (M for decree)
Palmer *v.* Dugard (M for decree) }
Dugard *v.* Palmer (Cause) }
Ashton *v.* Wood (Further consideration, M)
Pain *v.* Coombs (M for dec.)
Jowett *v.* Bentley (Cause)
Robson *v.* Earl of Devon (Ca.)
Lett *v.* Crystal Palace Railway Co. (Cause)
Hamilton *v.* Marston (M for decree)
Pattrick *v.* Eastern Union Railway Co. (M for decree)
Taylor *v.* Grand Junction Waterworks Co. (M for dec.)
Broughton *v.* Griffin (M for decree)
In re Greenlaw's Estate } (Further cons.)
Smith *v.* Greenlaw }
Horton *v.* Horton (Cause)
Wenham *v.* O'Brien (Cause)
Hawks *v.* Turner (M for dec.)
Montifiore *v.* Dale (M for decree)
Ashmall *v.* Wood (Further consideration, M)
Holborow *v.* Ricketts (Further consideration)
Allday *v.* Fletcher (Cause)
Dawson *v.* Clark (Further consideration)
Huskisson *v.* Harris (Cause)
Daubuz *v.* Crosbie (Sp. case)

Duffort *v.* Arrowsmith (M for decree)
Holden *v.* Holden } (Cause)
Hill *v.* Dolphin }
Tildesly *v.* Lodge (Cause)
Langwith *v.* Rawson (Further consideration)
Rolfe *v.* Rolfe (M for decree)
Watters *v.* Jones (Further consideration)
De Dachenhausen *v.* Cowell (Cause)
Carter *v.* Haswell (Further consideration)
Collyer *v.* Train (Cl).

Rayner *v.* Tate (M for decree)
Fyfe *v.* Arbuthnot (M for decree)
Baker *v.* Ellis (M for decree)
Anderson *v.* Abbot (M for decree)
Moffett *v.* Bates (M for dec.)
Jones *v.* Thompson (M for decree)
Hodgson *v.* Hartley (M for decree)
Morrell *v.* Butterfield (M for decree)
Chorley *v.* Bellett (M for dec.)
Lloyd *v.* Horrox (M for dec.)
Horniblow *v.* Munford (M for decree)
Vale *v.* Bliss (M for decree)
Welch *v.* Colquhoun (Cause)
Price *v.* Watson (M for dec.)
Sloper *v.* Cottrell (Cause)
Westall *v.* Bain (M for decree) *Sh*
Haslam *v.* Frith (Further consideration).

Before Vice-Chancellor Sir W. P. WOOD.

CAUSES, &c.

Wythes *v.* Labouchere (E to answer)
Wythes *v.* Labouchere (E to answer)
De la Rue *v.* Dickinson (E to answer)
Janes *v.* Page } (Cause)
Mingay *v.* Page } *March* 16
Beck *v.* Kantorowicz (M for decree)
Fripp *v.* Bridgwater and Taunton Canal and Stolford Railway and Harbour Co. (Cau.) *Feb.* 16
Nott *v.* Thomas (M for dec.)
Muskett *v.* Muskett (Cause, part heard)
Mornington *v.* Keane (Cause)
Dewsbury *v.* Dewsbury (Cau.)
Smith *v.* Harrison (M for dec.)
Moyle *v.* Rogers (M for dec.)
Manby *v.* Bewicke (Cause)
Violett *v.* Brookman (M for decree)
Smith *v.* Liddiard (M for dec.)
Harris *v.* Combe (M for dec.)
Welby *v.* Bowyer (M for dec.)
Bulkeley *v.* Mousley (Cause)
Hope *v.* Potter (Special case)
Watson *v.* Murray } (M for decree)
Watson *v.* Sturgis }
Coles *v.* Courtenay (Further consideration) *Sh*
Weston *v.* Collins (Cl)
Petty *v.* Cockerill (Further consideration)
Wylde *v.* Murray } (Cause)
Sturgis *v.* Murray }
Marchioness of Londonderry *v.* Bramwell (M for decree)
Hare *v.* Burgess (M for dec.)
Arthur *v.* Midland Railway Co. (M for decree)
Arthur *v.* London and North-western Railway Co. (M for decree)
Keal *v.* Cunnington (Cause)
Greenwood *v.* Shave (M for decree)

Hitchcock *v.* Carew (2) (Further consideration)
Lee *v.* Bliss (Cause)
Priestley *v.* Holgate (M. for decree)
Bowerman *v.* Bowerman (2) (Cause, Ptn)
Beere *v.* Beere (Further consideration)
Mayor of Rochester *v.* Taylor (Cause)
Hopps *v.* Wood (Further consideration)
Hughes *v.* Jones (F D, C)
Norcop *v.* Gardner (M for decree)
Atlee *v.* Debley (F D, C)
Stretton *v.* Snazel (M for decree)
Jones *v.* Farnell (Cause)
Duff *v.* Duff (M for decree)
Farebrother *v.* Arkell (Cause)
Lord *v.* Lord (Cause)
Baxter *v.* Brooke (Cl)
M'Culloch *v.* Gregory (F D, C, Further cons., Ptn)
Holland *v.* Johnson (M for decree)
Bennett *v.* Adamson, (M for decree)
In re Fryer { (Further consideration from chamb.)
Martindale *v.* Picquot {
Poyser *v.* Edwards (Cl)
Powell *v.* Powell (3) Further consideration)
Godfrey *v.* Mountain (M for decree)
Bourne *v.* Dugard (M for decree)
Rowley *v.* Unwin (Further consideration)
Stretton *v.* Stretton (Special case)
Gwynn *v.* Doughney (M for decree)
Sudbury *v.* Brown (Further consideration)
Vin[illegible] *v.* Whitehead (Cl).

COURT OF EXCHEQUER.

HILARY TERM.—20 VICTORIA.—*Jan.* 27, 1857.

THIS Court will hold sittings on Friday, the 6th day of February next, and every succeeding day (Sundays excepted) until and including Tuesday, the 17th day of February next, and will at such sittings proceed in disposing of the business then pending in the New Trial and Special Papers; and will also, on Saturday, the 21st day of February next, hold a sitting, and will, on the said 21st day of February next, proceed in giving judgment in all matters then standing for judgment.

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed Henry Simpson, Gent., of No. 13, Wellington-street, London-bridge, Southwark, to be a London Commissioner to administer oaths in the High Court of Chancery.

SAMUEL BAKER, Birmingham, ironfounder, Feb. 13 and March 6 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Coldicott & Canning, Dudley; Hodgson & Allen, and Reece, Birmingham.—Pet. d. Oct. 24.

JOSEPH CURTIS WHARTON, Stourbridge, Worcestershire, licensed victualler, Feb. 16 and March 9 at half-past 10, Birmingham: Off. Ass. Christie; Sols. Collis, Stourbridge; Knight, Birmingham.—Pet. d. Jan. 21 and 22.

WILLIAM TYLER, King's Bromley, Staffordshire, miller, Feb. 19 at half-past 11, and March 12 at half-past 10, Birmingham: Off. Ass. Bittleston; Sols. Bowen, Stafford; E. & H. Wright, Birmingham.—Pet. d. Jan. 27.

GEORGE WOODALL, Carlisle, Cumberland, grocer, Feb. 17 at 1, and March 19 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Donald, Carlisle; Hoyle, Newcastle-upon-Tyne; Maples & Co., London.—Pet. f. Jan. 14.

JOHN ALFRED HATFIELD, Bradford, Yorkshire, draper, Feb. 20 and March 20 at 11, Leeds: Off. Ass. Young; Sols. Rawson & Co., Bradford; Bond & Barwick, Leeds.—Pet. d. and f. Jan. 27.

JOHN HOLMES, Bramham, Yorkshire, builder, Feb. 20 and March 20 at 11, Leeds: Off. Ass. Young; Sol. Bickers, Tadcaster; Cariss & Cudworth, Leeds.—Pet. d. Feb. 2.

JOHN WILKS, Whitby, Yorkshire, butcher, Feb. 20 and March 20 at 11, Leeds: Off. Ass. Young; Sols. Buchanan & Gray, Whitby; Bond & Barwick, Leeds.—Pet. d. Jan. 22.

Meetings.

Henry Taylor and *Henry Hoyle*, Vale Mill, near Bacup, and Manchester, cotton spinners, Feb. 17 at 12, Manchester, last ex. and pr. d.—*Margaret Jane Stoveld*, Blyth, Northumberland, ship builder, Feb. 18 at half-past 11, Newcastle-upon-Tyne, last ex.—*Morris Barnett*, Ramsgate, Kent, jeweller, Feb. 18 at 1, London, aud. ac.—*Thomas Gorton*, Lincoln's-inn-fields, merchant, Feb. 18 at 12, London, aud. ac.—*Alfred Page*, Baker-street, Portman-square, shoe manufacturer, Feb. 18 at 12, London, aud. ac.—*Edward Smith*, Isleworth, Middlesex, baker, Feb. 17 at 12, London, aud. ac. —*John Netherville Blake*, Egremont, Cheshire, commission agent, Feb. 12 at 11, Liverpool, aud. ac.—*John Clay*, South Shields, Durham, ale merchant, Feb. 18 at 11, Newcastle-upon-Tyne, aud. ac.—*Charles Henry Seaman*, North Shields, Northumberland, ship chandler, Feb. 17 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*George Gosling*, Sidmouth, Devonshire, builder, Feb. 19 at 1, Exeter, aud. ac.; Feb. 26 at 1, div.—*Christopher Vickry Bridgman*, Tavistock, Devonshire, scrivener, March 12 at 1, Exeter, aud. ac.; March 19 at 1, div.—*Richard Gribble*, Pilton, Devonshire, carpenter, Feb. 19 at 1, Exeter, aud. ac.; Feb. 26 at 1, div.—*Philip Kelland*, Bampton, D[illegible]onshire, miller, Feb. 19 at 1, Exeter, aud. ac.; Feb. 26 at [illegible]iv.—*Richard Slocombe*, Kentisbury, Devonshire, farmer, Feb. 19 at 1, Exeter, aud. ac.; Feb. 26 at 1, div.—*John Arliss*, Plymouth, Devonshire, carrier, March 2 at 10, Plymouth, aud. ac. and div.—*Theodore Jewitt* and *Edmund Micklewood*, Plymouth, Devonshire, stationers, March 2 at 10, Plymouth, aud. ac. and div.—*Fred. Reed Davies*, Plymouth, Devonshire, auctioneer, March 2 at 10, Plymouth, aud. ac. and div.—*J. Veyro*, Ripon, Yorkshire, linendraper, March 3 at 11, Leeds, aud. ac. and div.—*William Grayburn*, Kingston-upon-Hull, grocer, March 4 at 12, Kingston-upon-Hull, aud. ac. and div.—*Louisa Elizabeth Gordon*, Dean's-place, South Lambeth, Surrey, bookseller, Feb. 24 at 1, London, div.—*George Knight*, Poole, licensed victualler, Feb. 26 at 11, London, div.—*Edward Whitmore*, *John Wells*, *John Wells* the younger, and *Fred. Whitmore*, Lombard-street, bankers, Feb. 24 at half-past 11, London, div.—*James Dellagana* and *B. Dellagana*, Red Lion-street, Clerkenwell, stereotype founders, Feb. 25 at 11, London, div. —*James Taylor*, *Richard Eccles*, and *John Nuttall*, Bottoms-hall Mill, Tottington Lower-end, Lancashire, cotton spinners, Feb. 19 at half-past 12, Manchester, aud. ac.; Feb. 26 at half-past 12, div.—*E. M. Davis*, Sutton Coldfield, Warwickshire, licensed victualler, Feb. 25 at half-past 10, Birmingham, div.—*Adolph Liebeschutz*, Liverpool, tailor, Feb. 26 at 11, Liverpool, div.—*Alexander S. Parker*, Plymouth, draper, March 2 at 10, Plymouth, div.

Certificates.

To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.

Robert Y. Barnes, City-road, floor-cloth manufacturer, Feb. 25 at half-past 11, London.—*Edgar Adams*, Brighton, laceman, Feb. 25 at half-past 12, London.—*Thomas Baker* and *James Boswell*, High-street, Poplar, colour manufacturers, Feb. 25 at half-past 1, London.—*George Stockbridge*, Oxford-street, draper, Feb. 24 at 1, London.—*Edward Rowell*, Manchester, bill broker, Feb. 25 at 12, Manchester.—*H. Evans*, Wednesbury, Staffordshire, grocer, Feb. 26 at half-past 10, Birmingham.

To be granted, unless an Appeal be duly entered.

George Dewing, Bath-street, Newgate-street, printer.—*A. Lazarus*, High-street, Whitechapel, tailor.—*Thomas Prebble*, Ramsgate, plumber.—*Nils Wilhelm Wikman*, Minories, ship chandler.—*J. Dellagana* and *B. Dellagana*, Red Lion-street, Clerkenwell, stereotype founders.—*Archibald Hurst*, Rotherhithe, manure manufacturer.—*Wm. Waring*, Crown-street, Walworth-road, chemist.—*Wm. Charles Stuart*, Cambridge, tailor.—*John Phillips*, Wood-street, Clerkenwell, wholesale rag merchant.—*Wm. Tyson*, Liverpool, flour dealer.—*J. N. Blake*, Egremont, Cheshire, commission agent.—*Edward G. Crook*, Chorley, Lancashire, apothecary.—*T. Howitt*, Sheffield, licensed victualler.—*Henry Howgate* and *George Howgate*, Sheffield, steel converters.—*Samuel Biggin*, *Henry Biggin*, and *Paul Smith*, Sheffield, saw manufacturers.—*Francis Peverelle*, Birmingham, hardware dealer.—*John Comley*, Dawley, Shropshire, draper.

Scotch Sequestrations.

Wm. Donaldson, Edinburgh, tailor.—*J. Chalmers*, Blairgowrie, Perthshire, draper.—*John Ferguson*, Bridge of Allan, Logie, Stirlingshire, grocer.

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Meetings.

John Poland, Broadway, Ludgate-hill, wholesale furrier, Feb. 27 at 12, London, last ex.—*Benj. Callaway*, Southsea,

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THE JURIST.

LONDON, FEBRUARY 14, 1857.

LORD ST. LEONARDS, in his work on Powers, makes the following observations with respect to the effect of the exercise of a power of revocation reserved, but alone, and uncoupled with any power of new appointment, in a deed or other instrument inter vivos executing a power. He says, "If the original power be a general primary one, and the estate be settled only in default of and until its execution, a new appointment, with a power of revocation only, and a subsequent exercise of that power, would, it is apprehended, restore the original settlement, and with it the general power of appointment, which would effect the intention; for in such a case the original power of appointment in its creation overrides all the other uses, and comes in lieu of the fee. It cannot be treated as a mere power to defeat a settlement, for it is itself the immediate and leading object of the settlement. . . . . But where, on the contrary, the estate is at once settled to uses in strict settlement, with a power of revocation, and that power is afterwards executed by a new limitation, and a power of revocation only reserved, and the latter power is then exercised, in that case the last revocation would restore the original settlement, but not, it should seem, the original power of revocation." The reason of the above distinction is not at the first view quite apparent. The argument from implied intention is surely strained somewhat tightly, by maintaining that the form of the original settlement affords any more evidence in the one case than in the other of an intention, that by the exercise of the power of revocation reserved in the last deed the original settlement should be restored, either with or without the powers therein contained. But the doctrine thus laid down results from a consideration of what the cases then decided had established as law, and apparently also from a feeling that those decisions had carried the law far enough in the direction to which they tended. It had been held, first, that a power to revoke in an original instrument does authorise a new appointment; secondly, in principle, that an instrument exercising a power must expressly reserve the powers intended to be retained, (*Hele* v. *Bond*, 2 Sugd. Pow., App., 5), and consequently that a power of revocation reserved in such an instrument does not include a power to limit new uses; and, thirdly, that where uses are at once limited by a settlement containing a power of revocation and new appointment, or, what would amount to the same thing, a power of revocation only, but the deed executing the power reserves only a power of revocation, then the exercise of such last-mentioned power restores the original settlement, but discharged of the powers therein contained. (*Ward* v. *Lenthall*, 2 Keb. 269). Here Lord St. Leonards made a stand, and distinguished the case where the estate was settled only in default of execution of the original power, which in that case he denominated a general primary power—an expression, by the way, as the context shews, not intended to exclude particular powers, but applying to powers both general and particular, in the usual signification of these terms. This doctrine, however, has since been much considered in the two important cases of *Montagu* v. *Kater* (8 Exch. 507) and *Evans* v. *Saun-*

ders—*Evans* v. *Evans*, (1 Drew. 415, 664; 24 L. J., Ch., 609; 17 Jur., part 1, p. 338); and though no direct decision has been come to upon the point, a disposition has been shewn to abolish the distinction; Sir R. T. Kindersley, V. C., inclining to hold the power in the original settlement destroyed, even in the case where the estate is originally limited only in default of execution of the power; the Lords Justices, on the other hand, and perhaps also the Court of Exchequer, inclining to restrain the doctrine which would destroy the powers in the original settlement, even in the case where the estate is at once limited to uses in strict settlement, or, at any rate, not to extend it to any case where not absolutely obliged so to do by the necessity of strictly adhering to precedent in all points of law once established, upon which the titles to estates may depend. It may be useful, therefore, to point out what was actually decided in the cases above mentioned, and the precise grounds upon which those decisions proceeded. The case of *Montagu* v. *Kater*, so far as material, is as follows:—Landed estates were settled to the use of A. for life, remainder to the use of B. for life, remainder to the use of the children of A. and B. as A. and B. should by any deed or writing jointly appoint; and in default of such joint appointment, as the survivor should by deed or will appoint; and in default of such appointment, to the use of trustees, upon certain trusts, which in the events which happened would have been for the benefit of the eldest son of A. and B. A. and B. had two sons. A. and B., in pursuance of the power in the settlement, appointed the premises, subject to their own life estates, to the use of their youngest son in fee, reserving a joint power of revocation and new appointment. A. and B. afterwards exercised the joint power of revocation, but made no new appointment. B. died, and after B.'s death, A., in exercise of the separate power given to the survivor by the original settlement, appointed the premises by will to his youngest son in fee. It was held that this latter appointment was valid, on the ground, that by the revocation *alone* of the joint appointment the original settlement was *entirely* restored; and Alderson, B., in delivering the judgment of the Court, after quoting the words of Lord St. Leonards as to a general primary power, said—"By the execution of the joint power the estate was limited to the defendant" (the youngest son) "in fee. The revocation of that appointment, also jointly made, *revived the original power of joint appointment*, and with it the dependent power of appointment by the survivor in case of default. The case then stands exactly as if *the first joint appointment had never been made*. Then, if so, the subsequent non-exercise of that subsisting joint power was clearly a default in executing such joint power. The consequence is, that in that event the power came to the survivor." It will be observed that the distinction between this case and those put by Lord St. Leonards is, that here the instrument executing the joint power of appointment reserved *a power of new appointment*, as well as a power of revocation; but it will also be observed that the learned Barons applied the language of Lord St. Leonards as to a general primary power to this case, where *a power of new appointment* was reserved, together with a power of revocation, as well as to the case put by him, and which he has said (2 Sugd. Pow. 458) was the only case where the question could arise, namely, where a power of revocation only was reserved; though at the same time it was evidently with reluctance that the Court entertained the notion that the powers in the original settlement could in any case be presumed to have been destroyed. The second case above referred to was, so far as material, as follows:—By settlement in 1794 estates were limited to A. for life, remainder as she should by deed or will appoint. In 1830, A., by deed, appointed the fee in pursuance of the power, reserving powers of revocation and new appointment exerciseable only by deed. In 1833, A., by deed, in exercise of the power in the deed of 1830, revoked the uses limited by that deed, and newly appointed the fee, again reserving powers of revocation and new appointment exerciseable only by deed. In 1835, A., by deed, revoked the uses limited by the deed of 1833, and newly appointed the fee, again reserving a power of revocation and new appointment exerciseable only by deed. In 1836, A. revoked the uses limited by the deed of 1835, but made no new appointment. By her will, executed in 1848, and purporting to be made in exercise of the power reserved by the settlement of 1794, A. devised the estate to trustees upon trusts for sale. The question was, whether the power reserved to A. by the settlement of 1794, to appoint by will, was subsisting at the time when A. purported to exercise that power by her will. Sir R. T. Kindersley, V.C., assumed that the original power contained in the settlement of 1794 to appoint by deed or will had come to an end, and held that it had not been restored, and therefore that the power to appoint by will (it being admitted on all hands that the power to appoint by deed or will was one power, though the mode of its execution was alternative) was not subsisting at the time of its supposed execution. Sir G. J. Turner, L. J., held *that the power contained in the original settlement to appoint by deed or will had never come to an end*, and consequently that the power to appoint by will was subsisting at that time. "No act," said his Lordship, "had been done to affect the power to appoint by deed or will contained in the original settlement, unless it had been exhausted by the several deeds of appointment, or destroyed by the new powers of appointment created by those deeds." With respect to the first point, his Lordship's opinion was, that although uses had been from time to time appointed, exhausting the fee, those uses had at all times been revocable, and that such defeasible uses could not exhaust the original power. This language, if taken generally, appears quite opposed to the doctrine of Lord St. Leonards; but it must be observed, that here the original power was, in the language of Lord St. Leonards, a general primary power; and further, that this case also is distinguishable from those put by him, inasmuch as here, the deed, reserving the power of revocation last exercised, reserved also a power of new appointment—a distinction which Sir G. J. Turner, L. J., in his judgment expressly pointed out. With respect to the second point, as to whether the new powers to appoint by deed, contained in the several deeds of appointment, had destroyed the original power to appoint by deed or will, his Lordship's opinion was, that the question must be governed by the intention; that very clear evidence of intention would be necessary, inasmuch as the substitution of the less extensive power would be in derogation of an existing right; and that there was no such evidence in the case before him as would justify such a conclusion. Such is the result of the law upon the principal point under discussion. A further question, however, arose in the case of *Evans* v. *Saunders*, as to whether the revocation by the deed of 1836 of the uses declared by the deed of 1835 might not have operated to restore the uses declared by the deed of 1833, with respect to which the Lords Justices appear to have been divided in opinion. But the consideration of this, and of some other important points suggested by the observations of the learned judges in these cases, we are compelled to reserve for a subsequent occasion.

◆

The present week has been fruitful in parliamentary bills of peculiar interest to lawyers. We offer to our readers a summary of them, which may be useful to those who have read the debates at length, in reminding them of the main points which they present, and also to those who have not read them, in saving the time and trouble required for perusing many columns of a newspaper or pages of Hansard.

First in order, Lord Brougham has introduced a bill for preventing vexatious actions by persons who are unable to pay the costs in the event of their being unsuccessful. His Lordship proposes that a judge shall have a discretionary power to hear a case on its merits, and, having regard to the circumstances and nature of the action, to order proceedings to be stayed until security be given for the costs.

Sir George Grey has brought in a bill to amend the Penal Servitude Act, 16 & 17 Vict. c. 99. The effect of the proposed amendments is to abolish transportation as a substantive sentence, and to substitute penal servitude in all cases. Sentences of penal servitude are rendered co-extensive in point of time with those of transportation, in lieu of which they are imposed. The first portion of the sentence is to be passed in prison at home. Irreclaimable convicts are to be imprisoned for life. Of reclaimable convicts, as many as can advantageously be so disposed of will be sent to Western Australia. There is no intention of founding any new penal settlement beyond sea.

The Lord Chancellor's bill relating to the jurisdiction of the Ecclesiastical Courts proposes to constitute one Court of Probate, which is to be a temporal and not an ecclesiastical court, and to be established in London for the mere purpose of registering wills and of directing in what courts any questions which may arise as to their validity shall be tried. District courts are to be continued for the purpose of proving wills where the personal estate is sworn under 1500*l.* The Court of Probate in London is to be presided over by one of the Vice-Chancellors. The exclusive privileges of the proctors are to be retained for the registration of wills, but the court is to be thrown open to practitioners in the common-law courts for other business, *which just amounts to nothing*, inasmuch as the contentious jurisdiction of the Court is to be abolished, and, beyond registering wills, it will have simply the office of laying the venue for the trial of issues concerning their validity. Where the personal estate is sworn under 200*l.* county courts are to have jurisdiction to determine whether wills are valid or not. As to the matrimonial jurisdiction, it is proposed (as we understand the measure) that a separate tribunal shall be established for the purpose of exercising it, and that if a married woman be deserted by her husband without lawful excuse for three years, she may obtain a decree of separation, which will enable her thenceforth to be mistress of her own property. If they come together again, she is to have the same power of making a settlement out of her earnings in the interval as she had before marriage. In other cases of separation by deed, she is to have separate control over her after-acquired property. All the other Lords who took part in the discussion objected to the Lord Chancellor's measure so far as it relates to the above matters, viz. the testamentary and matrimonial jurisdiction of the Ecclesiastical Courts. With regard to church discipline, it is provided that a bishop may at any time file articles in his own court in a simple form against an offending clergyman, and the same course may be taken (except in the case of merely doctrinal offences) by any voluntary promoter. If the charge be admitted, the bishop, assisted by the chancellor or vicar-general, will pronounce sentence; if denied, a jury of five persons, clergymen and laymen, are to decide the questions of fact. An appeal will lie to the Court of Arches, and thence to the Privy Council.

The second report of the Statute-law Commission has been referred to a select committee, in order to consider the propositions in that report for the adoption of means to improve the manner and language of current legislation. The Lord Chancellor stated the effect of those propositions to be, that an officer should be appointed, with a sufficient staff, (the extent of that staff being matter of experiment), whose duty it would be to attend to all bills that were referred to him; to report exactly what was the existing state of the law on the subject to which it related, and what alteration it would effect in the existing law; to examine all bills after they had passed through committee, and report to the House the effect of the alterations which might have been made, so that Parliament might be guided in its decisions as to whether those bills should pass or not. "The mistakes," his Lordship added, "made in legislation from the want of such supervision were positively discreditable. In the very last session of Parliament a County Court Act was passed in which it was provided that certain judges should receive the salaries placed opposite their names in the schedule; but in the schedule there were two judges opposite whose names no salaries were put at all. In the same session an act was passed for improving the Scotch bankruptcy law, in which certain proceedings were to be adopted in the form set forth in the schedule; but there was no schedule in the act. In 1850 an act was passed which was meant to come into force on a certain day after next Trinity Term; but it happened to be Trinity Term when it passed, so that the act could not come into operation till the following year, and a bill was necessary to set it right. Besides blunders like these, there was a custom of introducing clauses into a bill which had no connexion whatever with its object. The report of the commissioners recommended that bills should be classed, so that those which laid down permanent rules of law should be separated from those of a local or private character; that they again should be subdivided into statutes applying to England, Ireland, Scotland, and the colonies, and thus our legislation kept from becoming a confused mass which it was almost impossible to comprehend."

Lord Campbell said that their bungling mode of legislation had brought discredit on legislative assemblies. Questions relating to the common law which were brought before the Court of Queen's Bench were very soon settled; but those which turned upon the statute law—the settlement of the poor, or the statutes relating to highways and prisons—occasioned the Court great trouble and inconvenience, in consequence of the deplorable laxity with which the different acts were framed.

In the House of Commons, upon the same subject being discussed, Lord Palmerston referred to the act of Parliament which made a special provision for the event of Good Friday falling on a Sunday; and Mr. J. G. Phillimore said that specimens of consolidation acts had been laid upon the table, and the most cursory examination shewed them to have been drawn up in a very careless and slovenly manner. The act consolidating the law of treason reproduced the most obsolete provisions, making it treason to kill a judge sitting in Eyre. Enactments relating to the corruption of blood were also referred to as now existing, although they were abolished many years ago. Another of the bills declared the stealing of Exchequer tallies, which were no longer used, punishable as larceny. Nothing could exceed the tautology and confusion in the language of our statutes. The acts drawn by Mr. Deacon Hume for the regulation of the customs were, however, perfect models of brevity and precision, and it was disgraceful that their style was not generally imitated in the rest of our legislation. In illustration of the heterogeneous contents of particular acts disfiguring our statute-book, he quoted the title of the 40 Geo. 2, which was intended to continue several laws for the northern borders of England, to confer certain privileges connected with the conveyance of sugar from our colonies, to deal with the prosecution of offenders, and also to prevent the retailing of wine within the universities. Another statute, comprising a still larger and more motley group of subjects, was intituled "An Act to continue Weirs on the River Thames, to prevent the spread of Distempers among horned Cattle, to make certain Regulations for Attornies and Solicitors, to provide for a more frequent Return to Writs in the County Palatine, to impose Rates on the Inhabitants of the City of London, and to allow Quakers to make Affirmations in lieu of taking Oaths."

The Judgments Execution Bill has been read a second time. Its intention is, that a judgment obtained in England should have the same effect in Ireland and Scotland as in England, and vice versâ.

Kingsford v. *Merry* has been brought before the House of Commons; but the Vice-President of the Board of Trade, while admitting it was a hard case on the defendant, does not see his way clearly to legislate upon the subject, so as to satisfy the different views and wishes of the mercantile class.

Review.

Steer's Parish Law; being a Digest of the Law relating to the Civil and Ecclesiastical Government of Parishes, Friendly Societies, &c., and the Relief, Settlement, and Removal of the Poor. Third Edition. By Henry John Hodgson, *Esq., Barrister at Law.*

[*Stevens & Norton.*]

The period which has elapsed since 1843, when the second edition of this book appeared, has been fruitful in statutes and decisions upon the main subjects to which it is devoted. These accumulated stores have been carefully and skilfully collected, analysed, and arranged in the body of the work by its present editor. In allusion to this part of his labours he says—

"Among the more important additions thus introduced are the statutes relating to the formation of new parishes, the amendment of the Marriage and Registration Acts, and the establishment of a county constabulary throughout England, all of which became law during the last session; while the result of previous legislation will be found in the measures for prohibiting interment in populous places; for the establishment of vestries under the Metropolis Local Management Act; for facilitating the duties of justices of the peace, and protecting them from actions; for the amendment of the laws relating to the relief and removal of the poor, and the procedure consequent thereupon; and for the regulation of friendly societies.

"The provisions of these acts, as well as of such others as have a bearing upon the different heads of parish law, have been fully abstracted, and embodied in the text."

This book is so well known as a valuable compendium of parish law as to require but few comments on our part. It is useful not only to those who are immediately engaged in parochial affairs, of themselves a very numerous and important body, but also as affording information upon subjects interesting to all members of the community, and especially to the legal Profession. Thus, after treating of parishes, it proceeds to the subjects of the church, its officers, rites, and sacraments; dissenters, highways, vestries, justices of the peace and constables, weights and measures, disorderly houses, vagrants, and rates. The remainder of the book is devoted to the poor laws and friendly societies.

The part relating to the poor laws is especially valuable, as it includes the latest decisions, and at the same time digests the vast and difficult body of statute law upon the subject. Under this head the law of settlement and removal is fully discussed.

We make an extract from the work upon the curious error which once prevailed, that a dead body might be arrested for debt:—

"The vulgar notion that a dead body may be arrested for debt, and prevented from being buried, which seems to have been imported from the civil law, has now become obsolete, though Linwood says it at one time prevailed, (Wood's Civil L. 148; Lind. 278); and the funeral of Sir Barnard Turner in 1784, proceeding from London to Hertford, was said to have been stopped by an arrest of his body till his friends entered into engagements for his debts, (1 Burn's Eccl. L. 258 b); and the body of Dryden, the poet, was seized in like manner. But the legality of such a proceeding cannot be supported. By the death of the debtor all his property is vested in others—his heir and personal representatives; he cannot, therefore, satisfy the creditor out of his property; and that his body after death can be no satisfaction seems to be the opinion of the Legislature in the stat. 21 Jac. 1, c. 24, which provides, that if a debtor die in execution, the persons at whose suit he stands charged may sue out new execution against his land and goods. The authority of the case cited by Hyde, C. J., in *Quick* v. *Copleton*, (1 Lev. 161; 1 Sid. 242; 1 Keb. 866), in which a woman was holden liable on a promise to pay, in consideration of forbearance to arrest the dead body of her son, was thus contradicted by Lord Ellenborough in *Jones* v. *Ashburnham*, (4 East, 460, 465):—'It is impossible to contend that this past forbearance could be a good consideration, for an assumpsit to seize a dead body upon any such pretence would be contra bonos mores, and an extortion on the relatives. It is contrary to every principle of law and moral feeling: such an act is revolting to humanity, and illegal, and therefore a promise extorted by the fear of it could never be valid in law. It might as well be said that a promise in consideration that one would withdraw a pistol from another's breast could be enforced against the party acting under such unlawful terror.'

"Where a gaoler refused to deliver up the body of a prisoner who had died in his custody, unless certain claims against the deceased were satisfied, the Court compelled him to do so by mandamus. (*Reg.* v. *Fox*, 2 Q. B. 247)."

We cannot conclude our notice of this book without expressing a hope that in future editions the authorities may be transferred to the foot of each page, instead of disfiguring and breaking the text.

Portsea, Southampton, builder, Feb. 28 at 1, London, aud. ac.—*G. W. Jones*, Oxford-street, milliner, March 3 at 1, London, aud. ac.—*James Lamb*, *Edward Lewis*, and *Wm. Thos. Allum*, Wouldham, Kent, and Kingsland-road, Middlesex, cement manufacturers, Feb. 23 at half-past 11, London, aud. ac. joint est., and sep. est. of *Edward Lewis*.—*John Murray*, Middle Wharf, Great Scotland-yard, St. Martin-in-the-Fields, coal merchant, Feb. 21 at 11, London, aud. ac.; March 4 at 11, div.—*John James Tagg*, Reading, Berkshire, innkeeper, Feb. 21 at 11, London, aud. ac.; March 4 at 1, div.—*P. A. Black* and *John Whittingham*, Liverpool, provision brokers, Feb. 20 at 11, Liverpool, aud. ac., and March 6 at 11, div. sep. est. of *John Whittingham*.—*Robert Helsby* and *Joseph Helsby*, Garston and Warrington, Lancashire, builders, Feb. 20 at 11, Liverpool, aud. ac. sep. ests.; March 6 at 11, div. joint est.—*Richard Birchall* the younger, St. Helens, Lancashire, ironmonger, Feb. 20 at 11, Liverpool, aud. ac.—*S. M. Lotinga* and *N. S. Lotinga*, Newcastle-upon-Tyne and North Shields, merchants, Feb. 24 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Joshua Eyre*, Sheffield, grocer, Feb. 21 at 10, Sheffield, aud. ac.—*Wm. T. Staniforth*, Sheffield, cutlery manufacturer, Feb. 21 at 10, Sheffield, aud. ac.—*George Unwin*, Sheffield, scale presser, Feb. 21 at 10, Sheffield, aud. ac.—*Thomas Howitt*, Sheffield, licensed victualler, Feb. 21 at 10, Sheffield, aud. ac.—*O. King* and *A. King*, Dullingham, near Newmarket, corn merchants, March 5 at 12, London, div.—*John Laurence Harvey*, Chichester-place, King's-cross, draper, March 3 at 1, London, div.—*Daniel Davies*, Newington-causeway, glass merchant, March 3 at half-past 12, London, fin. div.—*Joseph Douglas*, Sumner-terrace, Brompton, Middlesex, apothecary, March 3 at 12, London, div.—*William Pickering*, Piccadilly, bookseller, March 3 at 12, London, div.—*Charles Ackroyd* and *Wm. Weston Rowles*, King-street, Long-acre, carpenters, March 6 at half-past 11, London, fin. div. sep. est. of *Charles Ackroyd*.—*William Kingston*, Bridge-road, Lambeth, linendraper, March 4 at half-past 11, London, div.—*Wm. Fawcett*, Kidderminster, Worcestershire, carpet manufacturer, March 4 at 11, Birmingham, aud. ac. and div.—*Thos. Hemingsley*, Willenhall, Staffordshire, cut-nail manufacturer, March 4 at half-past 10, Birmingham, aud. ac. and div.—*David Marshall*, Bristol, tailor, March 12 at 11, Bristol, div.—*Wm. Williford*, Scarborough, Yorkshire, wine merchant, March 5 at 11, Leeds, div.—*George Edward Hirst*, Halifax, Yorkshire, cloth merchant, March 5 at 11, Leeds, div.—*John Burnley*, Batley, Yorkshire, cloth manufacturer, March 5 at 11, Leeds, div.—*John Sugden* and *George Webster*, Bradford, Yorkshire, woolstaplers, March 24 at 11, Leeds, div.—*Joshua Clayton*, Bradford, Yorkshire, commission agent, March 24 at 11, Leeds, div.—*Richard Hardey*, Kingston-upon-Hull, merchant, March 4 at 12, Kingston-upon-Hull, div.—*Margaret Jane Stoveld*, Blyth, Northumberland, shipbuilder, March 6 at 11, Newcastle-upon-Tyne, div.—*James Reid*, Liverpool, tailor, March 6 at 11, Liverpool, div.—*James Lund Copeland*, Liverpool, merchant, March 5 at 11, Liverpool, div.—*John Roberts*, Holyhead, Anglesea, shipbuilder, March 6 at 11, Liverpool, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Francis Nicholls, Thornhill-crescent, Islington, merchant, March 5 at half-past 10, London.—*John Prout Davis Stephens*, Brabant-court, Philpot-lane, City, wine merchant, March 4 at 12, London.—*Henry Mopsey*, Castle-street, Falcon-square, City, ironmonger, March 4 at half-past 1, London.—*Alfred Charles Ayres*, Ramsgate, Kent, surgeon, March 4 at 1, London.—*Samuel Bone* the elder, Dagenham, Essex, beer-shop keeper, March 4 at half-past 12, London.—*Moses Lipman*, Liverpool, tailor, March 6 at 12, Liverpool.—*Oates Sagar*, Stonefold Mill, near Haslingden, Lancashire, manufacturer, March 5 at 1, Manchester.—*Godfrey Gregory Pike*, Birmingham, grocer, March 12 at half-past 10, Birmingham.—*William Naylor Anderton*, Kingston-upon-Hull, merchant, March 4 at 12, Kingston-upon-Hull.

To be granted, unless an Appeal be duly entered.

James Symes, *Edward Barnard Symes*, and *Reuben Raper*, Strand, electro platers.—*Joseph Corben Cooke*, Princes-street, Soho, picture dealer.—*Michael Willis*, Shot Tower Wharf, Lambeth, fire-wood manufacturer.—*George Knight*, Poole, licensed victualler.—*Thomas Cooper*, Derby, brickmaker.—*George Octavius Munton*, Bourne, Lincolnshire, surgeon.—*Henry Clark*, Nuneaton, Warwickshire, ribbon manufacturer.—*Benjamin Linfoot*, Mansfield, Nottinghamshire, builder.—*Joseph Laister*, Sheffield, butcher.

PETITION ANNULLED.

Henry John Girdlestone, Brighton, Berlin wool dealer.

CIRCUITS OF THE JUDGES.

(*Mr. Justice* COLERIDGE *will remain in Town*).

SPRING CIRCUITS, 1857.	MIDLAND.	WESTERN.	NORFOLK.	HOME.	NORTHERN.	OXFORD.	N. WALES.	S. WALES.
	Ld. Campbell J. Wightman	C J Cockburn J. Williams	L C B Pollock J. Erle	J. Cresswell	B. Martin J. Crompton	J. Crowder J. Willes	B. Bramwell	B. Watson
Wednes., *Feb* 18	....	....	....	....	Lancaster	....	....	....
Friday...... 20	....	....	....	....	Appleby	....	....	....
Monday.... 23	....	....	....	....	Carlisle	....	....	....
Tuesday.... 24	....	....	....	....	....	....	....	Swansea
Friday...... 27	....	....	....	....	Newcastle &	....	....	....
Saturday.... 28	....	....	....	Hertford	[Town	....	....	....
Monday, *Mar.* 2	Northamptn.	Winchester	....	....	....	Reading	....	....
Wednesday.. 4	....	....	....	Chelmsford	Durham	....	....	....
Thursday ... 5	Leicest. & B.	....	....	....	....	Oxford	....	....
Saturday ... 7	....	Salisbury	....	....	....	....	....	Haverford-
Monday.... 9	Oakham	....	Aylesbury	Maidstone	York & City	Worcester &	....	[west & Tn.
Tuesday.... 10	Lincoln &	....	....	....	....	[City	Welchpool	....
Thursday... 12	[City	Dorchester	....	....	....	....	....	Cardigan
Friday 13	....	....	....	....	....	Stafford	Bala	....
Saturday ... 14	Nottingham	....	Bedford	....	....	....	....	....
Monday.... 16	[& Town	Exeter & City	....	Lewes	....	....	Carnarvon	Carmarthen
Wednesday.. 18	Derby	....	Huntingdon	....	....	....	....	....
Thursday ... 19	....	....	....	Kingston	....	....	Beaumaris	....
Friday 20	....	....	Cambridge	....	....	....	....	....
Saturday.... 21	Warwick	....	....	....	Liverpool	....	Ruthin	Brecon
Monday.... 23	....	Bodmin	....	....	....	Shrewsbury	....	....
Wednesday.. 25	....	....	Bury St. Ed.	....	....	....	Mold	Presteign
Thursday ... 26	....	....	....	....	....	Hereford	....	....
Saturday ... 28	....	Taunton	....	....	....	Monmouth	Chester &	Chester &
Tuesday.... 31	....	....	Norwich and	....	....	....	[City	[City
Wednes., *Apr.* 1	....	....	[City	....	....	Gloucester & [City	....	....

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THE JURIST.

LONDON, FEBRUARY 21, 1857.

THE Courts of Westminster have now solemnly decided that a shareholder in a company cannot get rid of his liability to its creditors by shewing that it was through the fraud of the company he was induced to become a shareholder. These decisions were given with reference to "the thing ironically called the Royal British Bank[*]," and its unfortunate dupes. They will be found reported in our last number, under the names of *Henderson* v. *The Official Manager of the Royal British Bank* (3 Jur., N. S., part 1, p. 111) and *Daniell* v. *The Same*, (Id. 119), and another case in the Court of Common Pleas, reported in our present number. The application was for leave to issue execution against a shareholder by a judgment creditor of the bank, under the 7 & 8 Vict. c. 113, s. 10. The proposed answer was, that the shareholder had been induced by fraud to take the shares. He had remained a shareholder for a considerable time, received dividends, and acted in all respects as a shareholder until the bank stopped payment. He then gave notice he was no longer a shareholder, and disaffirmed the contract as far as he could. "This," said Lord Campbell, C. J., delivering judgment, "is an application by a creditor, who, on the faith of a party against whom it is made, that party being a shareholder, and having held himself out as a shareholder, gave credit to the bank by depositing money with it. . . . It would be monstrous if, having become a partner in the bank, and held himself out to the public as a shareholder, and remained such until the bank stopped payment, he could get rid of his liability to the creditors of the bank by saying, 'I am no longer a shareholder; I have been defrauded.' Whether he can say that to other shareholders who were privy to the fraud may be a question. Suppose this were a common partnership, and credit were given to the firm, and judgment were obtained in an action brought against the firm, it would be no answer to the creditor that the partner he sued was induced by the fraud of the other partners to become a member of the firm. That circumstance might be considered as between the partners inter se, but as between the firm and a creditor it is a matter wholly immaterial." It will be observed that this decision does not affect the judgment of the Master of the Rolls in Ireland in the case of *The Tipperary Bank*, upon which we commented in a former number[*]. There the effect of fraud was considered as between the shareholders themselves, and not as between them and creditors of the bank; and the Master of the Rolls decided that the English shareholders who had been induced to take shares by the fraud of the directors were not liable as contributories under the Winding-up Act.

Upon that occasion we also referred to the case of *The Universal Provident Life Insurance Company, ex parte Bell*, (June 21, 1856), in which the Master of the Rolls in England held that a person who had been induced by fraud to take shares in an insurance office was not liable as a contributory; and to *The Deposit and General Life Insurance Company* v. *Ayscough*, (2

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[*] Vide dictum of Sir J. L. Knight Bruce, L. J., (3 Jur., N. S., part 1, p. 96).

[*] 2 Jur., N. S., part 2, p. 325; and see *The Tipperary Joint-stock Bank, ex parte Ginger*, (5 Ir. Eq. Rep. 174).

Jur., N. S., part 1, p. 812), in which the Court of Queen's Bench, in effect, held that a plea to an action for calls, that the defendant had been induced to become a shareholder by the fraud of the company, and repudiated the contract as soon as he discovered the fraud, would be a good answer.

To these may be added *White* v. *Garden*, (10 C. B. 919; 15 Jur., part 1, p. 630), where it was held, that a contract for the sale of goods obtained by fraud on the part of the purchaser was void only at the election of the vendor, and that it was too late to declare such election after the goods had passed into the hands of a bonâ fide purchaser; *Ellis* v. *Schmæck and Another*, (5 Bing. 521), in which the facts were, that the defendants had purchased scrip of a mining company originated in fraud, and had attended one meeting of the company, but they never signed the partnership deed, were innocent of the fraud, and transferred their scrip before the plaintiff commenced an action for goods furnished to the company, after the defendants had purchased their scrip, but it was held that they were liable; and *Parbury's case*, (3 De G. & S. 43), in which the decision was, that sufficient ground was not shewn for excluding an allottee from the list of contributories to a provisionally-registered railway company, that the prospectus contained incorrect and fraudulent statements, in reliance on which he applied for shares, or that the project was never carried into effect, unless it were made to appear that the only other persons interested in the company were the persons who made the fraudulent statements. (See also *Ex parte Morgan, in re The Vale of Neath and South Wales Brewery Joint-stock Company*, 1 Hall & T. 320). The result of the decisions appears to be, that the shareholder may set up the fraud practised upon him as against those parties by whom the fraud was committed, but not as against innocent parties, whether they be co-shareholders or creditors of the company.

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In *Davison* v. *Duncan* the Court of Queen's Bench decided (Jan. 23, 1857) that it is no defence to an action for a libel in a newspaper, that the matter complained of is a true account of what passed at a public meeting of commissioners under a town improvement act, assembled for the purposes of the act. The privilege accorded to the publication of judicial proceedings was supported on the ground that it was for the public benefit, and that they were conducted under the control of the judges. There is also another very important reason, which is applicable to contested judicial proceedings, and not to public meetings, namely, that both sides are heard. Hence it would seem, that the publication of ex parte proceedings, even in a court of justice, would not be protected. This was intimated by Coleridge, J., in his judgment, and reference may be made, in support of his Lordship's view, to *Hoare* v. *Silverlock*, (9 C. B. 20), and the cases therein cited. There Maule, J., said, "We cannot say that a fair account of proceedings, which must be public and not ex parte, is not, generally speaking, a justifiable publication. I say generally, not universally, for matters may take place in courts of justice the publication of which would be injurious to the public." And Williams, J., stated the rule to be, that "a fair account of the proceedings in a public court of justice, not being ex parte, is privileged."

Mr. Starkie says, "Courts of justice are open to all; the common law of the land is to be learned principally by attention to the practice and proceedings of such Courts, and therefore it is of essential importance to the public that such proceedings should, to a great extent at least, be communicated to all. . . . On principles of public convenience, the ordinary rule is, that no action can be maintained in respect of a fair and impartial report of a judicial proceeding. This rule is subject to several natural and necessary limitations—first, as to the subject-matter of the report; and, secondly, as to the manner in which the proceeding is reported. First, as to the subject-matter. As the privilege in such cases is founded upon grounds of public policy and convenience, it ceases where the nature of the investigation is such that to publish it would obviously be offensive and injurious to the public, as where it involves blasphemous or indecent matters. . . . . The publication also of ex parte proceedings in criminal cases is not only not privileged by the law, but is regarded as a great misdemeanour. Where the evidence is ex parte, the party charged has no means of establishing a defence; and such premature statements tend to excite undue prejudices against the accused, and to deprive him of the benefit of a fair and impartial trial; and therefore, in several instances, the publication of matters of criminal charge contained in depositions before magistrates has been held to be indictable. . . . It seems also that the publication of ex parte proceedings, even of a civil nature, when they are injurious to the characters of individuals, cannot be justified." (Law of Libel and Slander, vol. 1, pp. 261, 263—265).

Neither upon principle, therefore, nor by analogy, can the immunity which is claimed for reporting the proceedings at public meetings be supported. It does not follow that there is a remedy against the person uttering the slander at the meeting, where there is a remedy against the publisher of the defamation in a written form, because the words uttered may not be actionable when spoken, and yet may be so when written. And this distinction between verbal and written defamation will be found for the most part to be a substantial one on examination; for although there is little difference between slandering A. to B. verbally, or by letter to B., yet there is a vast difference between uttering a slander against A. to few or many persons, and publishing it in a newspaper or other work of public circulation[*].

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Parliament continues to furnish matter of peculiar interest to the Legal Profession.

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[*] We regret to perceive that it has lately become a habit with the *Times* to abuse the judges whenever they decide the law contrary to the views or wishes of that journal. An exception, however, to such abuse appears in their leader of the 18th inst., where they heap compliments upon Lord Campbell in a fulsome and exaggerated style; but even then they cannot refrain from decrying the other learned judges of Westminster Hall. The language applied to these eminent and justly-respected men shews that the writer can neither understand nor appreciate the mental power, the deep learning, the independence, and sincere love of justice by which they are distinguished.

In the House of Commons on the 12th instant Mr. Napier moved that an humble address be presented to her Majesty, praying that she will be graciously pleased to take into consideration, as an urgent measure of administrative reform, the formation of a separate and responsible department for the affairs of public justice.

The following speeches of Mr. Collier and the Attorney-General contain the gist of the debate upon the subject:—

Mr. Collier seconded the motion, and expressed his fears lest the House and the country should be getting tired of hearing about law reforms. So much was said about law reforms each session, and so little done, that the public might be excused for believing there was an understanding among the lawyers to talk, but not to act, upon the subject. He, however, believed that the country took a great interest in the matter, and did not look with satisfaction upon the present state of our tribunals and of our laws. Indeed, it could not be otherwise when the Courts of law and of equity dealt with the same matters on totally distinct principles, and that again in the ecclesiastical courts a third set of principles was acted upon. No one could have regarded with satisfaction the recent fight of the Courts of Chancery and Bankruptcy over the dead body of the British Bank. If they looked to the highest tribunals they found two supreme co-ordinate courts, one of which, the Committee of the Privy Council, performed its functions to the satisfaction of all parties, while the other, the appellate tribunal of the House of Lords, gave equal dissatisfaction. Nor was the state of the law more satisfactory than the state of the tribunals. The statute-book was still a rude undigested mass, which had defied all the attempts at consolidation from the days of Bacon to Mr. Bellenden Ker. The country wished for a removal of the obstacles to the transfer of land, and it also objected to the law governing the relations between husband and wife, which were disgraceful to any civilised country. There were complaints respecting the ecclesiastical law; and the mercantile laws of England and Scotland were materially different, no attempt being made to harmonise them. What had been the attempts to remedy those defects? Commissions were appointed, to whom the various matters were committed in a vague manner, which involved a fruitless result. Those commissions were composed of men with different opinions, who soon came to a dead-lock, and each member made his own report. As a rule, commissions were abortive. There had been, no doubt, some law reforms, but they were made to meet the exigency of the moment, without any comprehensive view of the law as a whole. He did not mean to impute blame to any one. Every year there was a magnificent programme of law reforms announced by the Government. There were about half a dozen field-days for the lawyers, who made perhaps longer speeches than the House cared to hear. The subject having been ventilated, the measures were postponed from day to day, and finally laid on the shelf. The noble lord at the head of the Government did not regard such questions with such fervour as he did those which might involve the stability of his administration. He feared that the present session was not likely to be more fruitful of results in the way of law reforms than its predecessors. The hon. and learned gentleman (the Attorney-General) had sketched out in his address to his constituents at Aylesbury a masterly programme, which unfortunately he had not been able to carry out. The registry of landed property was an abortive scheme, as was also the amendment of the ecclesiastical law, for the measure propounded by the Lord Chancellor was not one that that House would entertain for a moment. It was right, however, to say that he believed his hon. and learned friend, (the Attorney-General), who was a sincere law reformer, had never been in favour of a transference of the jurisdiction of the Ecclesiastical Courts to the Courts of Chancery. The only measures to be expected this session were those which the Lord Chancellor had announced a few evenings since. He did not cast blame upon the law officers of the Crown, for he believed the Lord Chancellor, with his duties in Chancery, could not fulfil the duties of a minister of justice, such as it was the desire of the right hon. and learned gentleman (Mr. Napier) to see created. At present it would be impossible for the Lord Chancellor to be at the head of a department of justice, because he had no staff to assist him. It was equally impossible that the duties of such department should be performed by the Attorney-General or the Solicitor-General. It unfortunately happened that the engagements of the Lord Chancellor and the Attorney-General were such that they appeared to have no time for consultation; they did not act in unison; and, if he might be allowed the expression, in the shipwreck of law reform they floated away in contrary directions, upon different rafts. The resolution affirmed that there ought to be "a separate and responsible department for the affairs of public justice," and in that proposition he did not hesitate to concur. Such a department might collect most valuable information, and greatly improve the judicial statistics of the country. It might receive and record suggestions from the judges or other parties worthy of attention, and conduct, methodically and scientifically, inquiries which were now deputed to many desultory commissions. The functions of such a department might also include the progressive amendment of the law. Under that head he placed the consolidation of the statute law; and with respect to the plan of the present Statute-law Commission, of consolidating the acts relating to certain subjects from time to time, he thought it neither the best nor most expeditious mode of proceeding. It should be done as a whole, by a competent staff, under the supervision of a competent officer, and when done submitted to Parliament for confirmation by one instead of by 500 acts. The department of public justice might also have the duty of preparing and passing through Parliament the measures of law reform for which the Government consented to be responsible. He would like to see those measures taken up by the Government in a determined spirit, and as much importance attached to being beaten on an ecclesiastical courts bill as upon any other question of foreign or domestic policy. The department might correct current legislation, instead of that duty being delegated to a board under the superintendence of the two Houses of Parliament; not that he would allow any interference with private legislation, but merely give members the opportunity of obtaining assistance and advice. It was a question for grave consideration whether the head of the department might not be intrusted with a power of supervision over the county court judges and justices of the peace, and the power of criminal appeal, now in the hands of the Secretary of State for the Home Department. He did not for a moment wish to insinuate that those functions were not properly performed by the right hon. baronet, (Sir G. Grey); but the question was, whether they ought not to be performed by some high legal authority. He had given an outline of the duties which might be advantageously imposed upon the department of public justice. With respect to the head of it, the motion did not state whether he would sit in the House of Lords or in the House of Commons. It would be perfectly consistent with the resolution to make the Lord Chancellor the Minister of Justice, and that point, in his opinion, deserved consideration. But if the duties of the Lord Chancellor were too onerous to allow of such an arrangement, then the head of the department ought to be a member of the House of

Commons—a plan which, in some respects, might be still more advantageous. He approved of the motion not fettering the decision of the Government; and though it might be said to be only an abstract resolution, he had faith in the efficacy of abstract resolutions. He believed that in affirming the resolution they would be accomplishing an object long and ardently desired by law reformers, and taking one of the most important steps towards rendering the administration of justice consonant with the wants and civilisation of the people.

The Attorney-General said, the question had not escaped the attention of the Government, but they had reserved until this discussion the statement of their views. He did not complain of the resolution, because it was couched in general terms, and in accepting it, it must be distinctly understood that the Government did not recognise, as a consequence of its adoption, the establishment of a separate Minister of Justice. He did not think that at present there was any necessity for the introduction of such an officer. He thought that all the objects of the resolution might be more effectually carried out by means of existing machinery than by instituting a change in the constitution. It would be abundantly clear to those who had given the subject anything beyond the most superficial attention, that it was utterly impossible to introduce into the Cabinet a Minister of Justice, while the Lord Chancellor and the Home Secretary were members of it, without introducing also disagreement and contention, and destroying, in point of fact, that unity which was essential to its efficiency. A few years ago a new tribunal was constituted—the Court of Appeal of the Lords Justices. One of the reasons for establishing that tribunal was, that by relieving the Lord Chancellor of a portion of the judicial duties which pressed so heavily upon him, it would be in his power to discharge more directly the duties that belonged to him as Minister of Justice. It was perfectly within the power of that distinguished officer, if he were armed with a sufficient staff, to accomplish all that was needed. Three great objects were proposed to be accomplished—first, the complete and effectual superintendence over the administration of justice in all its departments; secondly, the superintending and effectually carrying out the process of the amendment of the law; and, thirdly, the giving prompt, effectual, and complete assistance to the business of current legislation. The Government would not omit to give that attention to the subject of the present resolution which its importance deserved; but one great peculiarity and misfortune was the constitution and distinct jurisdiction of our Courts. There were a great number of Courts, none of which were armed with the power of doing justice on any one subject. The necessity was therefore imposed upon the suitor of resorting to a great number of Courts to obtain a little portion of justice—first from one, and then from the other. That state of things ought not to be allowed to continue; but the apathy of the people of this country in regard to law reform was so great that it was not easy to carry a change in the law. If this system continued, it spoke plainly enough for the necessity of there being some great department charged with the duty of carefully watching and superintending the working of these numerous tribunals, and endeavouring to reduce into harmony a system which was otherwise altogether incongruous. A small portion of insolvency was committed to the Insolvency Court, a portion of bankruptcy was intrusted to the Bankruptcy Court, another statutory tribunal had the duty of carrying out the Winding-up Acts, and there were the Courts of law, which were opposed to the Courts of equity. There were numerous county court judges, and there was also the system of criminal procedure, which was utterly defective in principle. Prosecutions were instituted and conducted without control, and no adequate superintendence was exercised over the sentences and procedure of the criminal courts. The whole system stood in such a situation that the only hope was in charging a great and responsible department with the duty of superintending it carefully, and collecting the details for one great report to Parliament, arranging and educing those general conclusions with regard to the amendment of the system in principle and practice which the examination of those statistics would naturally suggest to philosophic minds devoted exclusively and in combination to the examination of these questions. With regard to the criminal law, the manner in which prosecutions were conducted required attention. A committee sat upon this subject last session. A party instituted prosecutions on his own judgment, and no one possessed any power of effectual control when emergencies arose. He knew, from his own experience, that no machinery existed adequate to the emergencies that might arise. At present no great department existed to which could be committed, in a manner satisfactory to the country, the consideration of the great subject of legal reform, and from which could come down a measure ex cathedrâ, and armed with authority. If proposals of law reform came down from such an authority the House would judge of them with confidence, undistracted by the projects and proposals of different members. He might illustrate this from what happened last session. He had proposed a bill on the alteration of the testamentary courts, substituting some cheap and efficient mode of answering the purposes discharged by the equity and testamentary courts, and securing the complete administration of justice in distributing the estates of testators. The moment he brought that bill in, the member for Suffolk (Sir F. Kelly) brought forward a different bill, while the hon. and learned member for Plymouth brought forward a bill which differed from either of the others. The introduction of these three bills had placed the House in a position of great perplexity and doubt, and he had tried to remove that perplexity by adopting in his measure the best provisions of the other two bills. But the measure, with those alterations, was not ready until so late a period that it was utterly impossible to carry it through Parliament in the course of last session. The time had been lost in deciding between these competitive schemes; whereas, if one of them had been brought forward with the sanction of a great department, the House would have had no difficulty in adopting it. Many of the discussions upon bills which now took place, and ended in nothing, would be avoided if every bill introduced were sanctioned by proper authorities. He would advert to another circumstance which proved the absolute necessity for some arrangement. The law consisted of the written and of the unwritten law. The written law was composed of a great number of statutes, many of them unfortunately so inconsistent with each other that it was extremely difficult to ascertain the exact state of the law. The unwritten law was even in a worse position. It was to be found in many hundred volumes of reports, to which continual additions were being made without any sufficient authority or any proper control. Any gentleman of the Bar who published a volume of cases, and prefixed his name to it, added to the unwritten law; and numbers of volumes were, in fact, being produced year after year, which judges felt bound to recognise when they were cited in courts of justice. The laws of a great country ought not to be embodied in such unauthorised, unauthenticated publications as these. While, therefore, the written law required revision, consolidation, and reduction, the same process was required in a tenfold degree by the unwritten law; but that process could only be effectually carried on under the guidance of a great department. In the observations he had made, illustrating the necessity of immediate attention being paid to the subject, he had stated more particularly his own views and opinions, to which the Government were not to be regarded as pledged.

The motion was agreed to.

The Lord Chancellor is about to lay on the table seven bills, forming a complete consolidation of criminal offences. It had been found necessary, he said, to begin from the statutes passed last year, and to go backward through the whole statute-book, section by section, in order to see what sections still remained in force which required to be consolidated.

Lord Brougham despaired of these digests ever becoming law, unless confidence were placed in those who prepared them, and Parliament were ready in general to accept and adopt them.

The Government are not at present prepared to bring in a bill for appointing a public prosecutor. The Solicitor-General stated the reason to be the great difficulty besetting the question.

LORD CRANWORTH'S DIVORCE BILL, AND LORD BROUGHAM'S MARRIED WOMEN'S PROPERTY BILL.

(*From a Correspondent*).

The material alterations in the law which Lord Cranworth proposes are—

1. To enable a wife to obtain a sentence of separation à mensâ et thoro on the ground of desertion by her husband for two years without reasonable cause.
2. To enable husband and wife to make an agreement by an acknowledged deed which shall have the effect of a sentence of separation.
3. To place a wife separated from her husband by sentence or agreement in the position of a single woman in respect of property acquired after the separation, and of the right and liability to sue and be sued: so, however, that cohabitation shall restore her to her status, but with the property to her separate use.
4. To enable the Court to dissolve a marriage on the ground of the wife's adultery, or of the husband's incestuous adultery, or adultery combined with such *cruelty* as would alone entitle the wife to a separation, or *adultery combined with desertion for two years without reasonable cause:* the decree to leave the parties free to contract marriage after confirmation on appeal or the lapse of the right to appeal; and the Court to have power to make provision as to the custody of the children.

It is unfortunate every way that these matters, which cannot be touched without affecting the soul and the soul's health, not of a few individuals merely, but of society itself, should be mixed up with and obscured by mere ritual—dealt with in a bill concerning jurisdictions, procedure, and vested interests. The present age, defective everywhere of imagination, is nowhere more so than in its legislation. In the old times—not more credulous perhaps, certainly more faithful and considerate than these—lawgivers (their mastery no less seen in forbearance than in action) regarded human laws in success rather than in failure, as rules observed more than as orders enforced or perhaps evaded; and estimated the goodness of a law by its operation on social habits, not by the columns of judicial statistics. Our modern legislators (by what apprenticeship they gained their privilege it would be hard to say) seem unable to conceive of laws as operating otherwise than in the exceptional cases where they are broken, or called into apparent action. They cannot imagine a law as sleeping—in security, not in impotence—and while sleeping, honoured by obedience and its fruits. Among the superstitions of this age of visible signs and testimonials, which can only see the Power in the Temple at the appointed hour of service, and misses it in daily life, is to be reckoned the superstition of recognising the law only in its courts, solving doubts, redressing wrongs. If the law were perfect, and its administration perfectly provided for, there would be no doubts, no wrongs, no courts. So far as its pomp is seen in its courts—the public temples—it is dishonoured and absent from the domestic altars.

"Hard cases make bad law" is a wise old maxim, which the very Chancellor who has proposed so much bad legislation sometimes repeats and applies in his own court—a maxim which, though still honoured in Westminster Hall, has long been forgetten in St. Stephen's Chapel, where, for want of occupation in the correction of some great social error, legislation has of late been principally occupied in puny, ignorant contests with hard cases—forgetting that hard cases are merely exceptional cases, when they are not the wrongs of classes crying for redress with authority, and under a more universal name. Thus the Legislature, magnifying in the narrow field of its microscope the hardships of those bakers, tailors, clerks, spinsters, widows, idlers, and else, who, seeking to appropriate the profits of some industry or adventure they neither work in nor understand, found only its losses, lately struck a blow at commercial credit, which we can only pray its constitution may be strong enough to resist. And now we are asked—upon sight of some hearths, cold, deserted, desolate, or worse, dishonoured, outraged—to legislate for them alone, without inquiring what dangers we may by such legislation bring upon those (many times more numerous, it is to be hoped) whose altar fires burn, dimly it may be, but with a glow not to be mended by any possible human stirring.

We have nothing to say on the separation (or divorce à mensâ et thoro) clauses of the Lord Chancellor's bill, beyond this—that they are insufficient. When a wife desires to leave bed and board, with or without cause, there is small wisdom in seeking to restrain her by any compulsion, and no reason for subjecting her to the ordeal of a judicial inquiry. The simple emancipation of every wife's person and property from her husband's control is what is needed and all that is needed, except a provision for the custody of the children—a problem not, perhaps, insoluble, though hitherto unsolved. When the husband seeks a separation, the interference of the Court may be necessary to absolve him, if cause be, from that obligation to maintain his wife and children which by the marriage contract he undertakes in return for her undertaking the part of an unproductive housekeeper and relinquishing of the position and vantage ground, and often of the very capabilities, of a worker for her own bread.

We have nothing now to say on the substitution of an ordinary court for the Legislature in deciding questions of divorce à vinculo. If an improvement, it is one of detail. The first business is to decide in what cases, if in any, is divorce à vinculo to be allowed. We have some confidence in the House of Lords that they will not consent to any alteration of the law of divorce in the way of relaxation; but though this confidence be well founded, it is not a slight thing that so rash and momentous an alteration as that of allowing divorce on the wife's application should be seriously proposed by a Lord Chancellor with the sanction of his Government.

Unless we are prepared to break up society, and rely for its re-union on some other ties than those of domestic life, we must preserve the marriage bond, in theory and in practice, indissoluble. Man and wife must feel that for their joint lives they have played a final stake with fortune. If it were otherwise, no one could sleep secure; suspicion, if not danger, would haunt every household. All the sparks of discontent, that are now commonly trodden out as they fall, would be supplied with fuel and blown into flame; caprice, inconstancy, satiety, interest, would have full play; intrigue, flattery, and calumny would have scope and a definite attainable end; each one's friends of the opposite sex would by the other be regarded as possible enemies and betrayers, the more dangerous the dearer.

Permission to marry again after the wife's adultery is practically given to the husband, if he is rich enough, by our constitution. It may be that even this stinted license is mischievous and demoralising, and that the mischief would be spread in certain directions by cheapening the process; but as, in most circles in this country, a wife's adultery, even though known to be committed only as a necessary part of the procedure for divorce and re-marriage, would be her social death, the mischief cannot be very great. But while society treats men's offences against chastity as venial, to enact that divorce à vinculo may be granted on the ground of the man's adultery and desertion for two years, is to enact that divorce à vinculo with mutual consent shall be free, after due time for deliberation. We say nothing of the provision against collusion—it is worthless. Has the Lord Chancellor never read, or can he have forgotten, the striking illustration of the consequences of easy divorce in the corrupted morals of Rome, when Augustus found it necessary, in order to encourage marriage, which had become unfashionable, to impose restrictions on separation?

Lord Brougham's proposed alterations in the law relating to the property of married women are well intended, but not altogether judicious. He would have the law regard a married woman as single in respect of property belonging to her at her marriage, or which afterwards is given to or devolves on her, or is acquired by her labour. This would be well if the law in other respects regarded her as such an independent unit. But her personal identity is merged in her husband's, and the impossibility of reconciling the possession of property with the condition of a slave has been shewn in the working of the Chancery institution of separate estate. For the evils incident to the separate peculium of married women, the conveyancers, with the sanction of the Chancellors, have contrived a Chancery remedy, in the shape of a restraint on anticipation; but this at best is but fetter against fetter, and could not be adapted to such a comprehensive measure as Lord Brougham contemplates. What is wanted, if not before, at least concurrently with, the grant of free rights of property, is absolute freedom of person and action, without which the other rights are little better than a mockery. At present the doctrine of equity gives absolute protection to the reversionary interests of married women in personal property; her husband cannot even beat it out of her. Lord Brougham proposes to endow her with an additional capacity for injury in that respect.

Besides its defects in principle, the bill is faulty in construction and detail; the provisions have been imperfectly conceived, and therefore are inaccurately expressed. If passed in its present form, it would give rise to many doubts. What is wanted is a simple enactment, accurately worded, to the effect that marriage shall not alter the rights and duties of a woman with respect to personal freedom and protection, property and contracts, with perhaps certain exceptions as to her personal liability on her contracts, and provisions limiting the husband's obligation for her engagements.

Commissioner to administer Oaths in Chancery.—The Lord Chancellor has appointed Francis James Coleridge, Gent., of Ottery St. Mary, Devonshire, to be a Commissioner to administer oaths in the High Court of Chancery in England.

ABSTRACTS OF BILLS IN PROGRESS.

Lord Cranworth's Bill to amend the Law relating to Divorce and Matrimonial Causes in England.

Sect. 1. Commencement of act.

2. Jurisdiction in matters matrimonial now vested in Ecclesiastical Courts to cease, except as to granting marriage licenses.

3. The court may enforce prior decrees or orders.

4. Pending suits to be transferred.

5. Jurisdiction over causes matrimonial to be exercised by the court of marriage and divorce; provided that no suit shall be entertained for jactitation of marriage.

6. The Lord Chancellor, the Lord Chief Justice of the Court of Queen's Bench, the Lord Chief Justice of the Court of Common Pleas, the Lord Chief Baron of the Court of Exchequer, and the Dean of the Arches shall be the judges of the said court, and any three of them, of whom the Dean of the Arches shall be one, shall be a quorum.

7. The Dean of the Arches to be the Judge Ordinary, and may hear and determine all matters, except petitions for the dissolving of any marriage.

8. Judge to take oath.

9. Who to act as judge during the absence of the Judge Ordinary.

10. Sittings of the court.

11. Seal of the court.

12. Officers of the court.

13. Advocates and proctors of any ecclesiastical court in England, and barristers, attornies, and solicitors, may practise as counsel, solicitors, or attornies respectively in the court, subject to regulations to be made by the court.

14. Court to act on the principles of the ecclesiastical courts.

15. Wife may petition for a divorce à mensâ et thoro on the ground that she has been deserted by her husband without reasonable excuse for two years or upwards, and the court, on being satisfied of the truth of the allegations of such petition, may, if it shall see fit, decree a divorce à mensâ et thoro accordingly.

16. The court may order alimony to be paid either to the wife or to a trustee, and may impose terms as to the giving indemnity to husband, and any other terms or restrictions.

17. Husband and wife may, by deed attested by two witnesses, and acknowledged by the wife, (as in the case of a disposition of lands), and inrolled in the court, agree to live separate, and make dispositions or agreements of or concerning their property respectively, which shall have the like validity as if the wife were free from legal disability; after which no suit shall be maintainable for restitution of conjugal rights.

18. In case of a divorce à mensâ et thoro on the petition of the wife, or of separation by deed, the wife shall, whilst the separation continues, be considered, with respect to property of every description which she may afterwards acquire, as a feme sole, such property on her decease intestate to go as if her husband were dead; and if she again cohabit with her husband, her property shall be held to her separate use, and be settled accordingly.

19. In every case of a divorce à mensâ et thoro obtained on the petition of the wife, or of separation by deed, the wife shall, whilst so separated, be considered as a feme sole for the purposes of contract and suing and being sued in any civil proceeding, and her husband shall not be liable in respect of her engagements: provided, that if alimony decreed or agreed for is not duly paid by the husband, he shall be liable for necessaries supplied for her use. Saving of joint powers.

20. Husband may petition that his marriage may be dissolved, on the ground of wife's adultery; and wife may petition that her marriage may be dissolved, on the ground that husband has been guilty of incestuous adultery, or of bigamy, or of adultery with such cruelty as without adultery would have entitled her to a divorce à mensâ et thoro, or of adultery with desertion without reasonable excuse for two years or upwards.

21. Court to be satisfied of absence of collusion.

22. Dismissal of petition.

23. If the court is satisfied that the case has been proved, and shall not find that the petitioner has committed adultery during the marriage, or has been accessory to or conniving at the adultery complained of, or has condoned the same, the

court shall declare the marriage dissolved, but may withhold decree on the ground of unreasonable delay, or of cruelty, or of desertion without reasonable cause.

24. Court may order alimony on decree for dissolution.

25. After decree, parties may marry again after expiration of time limited for appeal.

26. In suit for dissolution court may make interim and final orders for custody of children.

27. Issues may be tried before the court.

28. Court may direct issues to try any fact.

29. Affidavit in support of a petition.

30. Service of petition.

31. Examination of petitioner.

32. Adjournment.

33. Mode of taking evidence, orally and otherwise.

34. Court may issue commissions or give orders for examination of witnesses abroad or unable to attend.

35. Rules of evidence in common-law courts to be observed.

36. Attendance of witnesses on the court.

37. Penalties for false evidence.

38. Costs.

39. Enforcement of orders and decrees.

40. Power to make rules and orders, and to regulate fees.

41. Party may appeal from the Judge Ordinary within three calendar months to the full court, whose decision shall be final. Party may appeal from the full court on petition for dissolution of marriage, to House of Lords, but only on a question of law, to be stated in a case.

42. Fees to be paid by stamps, except where otherwise ordered.

43. Produce of fees and stamps to be paid to a fee-fund account.

44. Payments to Dean of the Arches and to officers of the Arches Court in respect to their duties under this act.

45. The Commissioners of the Treasury may grant compensation to judges, registrars, and officers in the courts matrimonial. subject to the 6 & 7 Will. 4, c. 77, s. 25, and the 10 & 11 Vict. c. 98, s. 9; such compensation to be subject to set off of salary from any office to be given to such officer.

46. Payment of salaries, &c.

47. Drafts on fee fund.

48. Lord Chancellor may order surplus of fee fund to be paid into the Exchequer. Deficiency out of Consolidated Fund.

49. Records, &c. to be transmitted from all ecclesiastical courts.

50. Rules to be laid before Parliament.

Lord Cranworth's Bill to amend the Law relating to Probates and Letters of Administration in England.

Sect. 1. Commencement of act.

2. Interpretation clause.

3. Testamentary jurisdiction of ecclesiastical and other courts abolished.

4. Testamentary jurisdiction to be exercised by a Court of Probate in the metropolis.

5. Her Majesty to appoint one of the Vice-Chancellors to be the judge of the court.

6. Judges to take the oath.

7. Provision for the absence of the judge of the Court of Probate.

8. District registries to be established in Nottingham, Lincoln, Shrewsbury, Peterborough, Norwich, Ipswich, Northampton, Oxford, Bridgewater, Exeter, Bodmin, Salisbury, Blandford, Winchester, Lewes, and Canterbury.

9. Officers of the Court of Probate.

10. First officers of the principal registry.

11. Clerks and officers of the Prerogative Court to be transferred to the like offices in the Court of Probate.

12. Appointment to offices. Salaries.

13. Tenure of office.

14. Qualification of registrars and district registrars.

15. Officers of the court to execute their offices in person. Registrars and clerks of the principal registry not to act as proctors, &c.

16. Seal of the court.

17. The court to have throughout all England the same powers as the Prerogative Court within the province of Canterbury. Suits for legacies or distribution not to be entertained.

18. Power to examine witnesses. Production of deeds, &c.

19. Powers of court to enforce orders.

20. Order to produce any instrument purporting to be testamentary.

21. Registrars, &c. to have power to administer oaths. Power to appoint also commissioners to administer oaths, &c.

22. Forging or counterfeiting seal or signature of officers. Penalty.

23. Procedure and practice of the Court of Probate, except where otherwise provided by this act, or by rules or orders, to be, so far as may be, according to the present procedure and practice in the Prerogative Court.

24. Lord Chancellor may make rules and orders for regulating the procedure of the court.

25. Mode of taking evidence in contentious matters, orally or otherwise.

26. Court may issue commissions or give orders for the examination of witnesses abroad or unable to attend.

27. Rules of evidence in common-law courts to be observed.

28. Court may direct issues to courts of law.

29. Verdict of jury conclusive.

30. Except and subject as herein provided, an appeal shall lie to the Court of Appeal in Chancery, and thence, or immediately and without so appealing, to the House of Lords, from all orders or decrees of the Court of Probate.

31. Advocates admitted to practise. Barristers may practise in contentious causes.

32. Proctors admitted to practise upon application at any time within one year after the passing of this act, without payment of fee or stamp duty: except as aforesaid the admission of persons to be proctors of the court shall be in the discretion of the judge, subject to the rules or orders: proctors now practising, or any persons hereafter admitted, not to be entitled to any compensation in case the business of the Court of Probate be thrown open to any other class or classes of persons.

33. Solicitors and attornies admitted to practise in contentious business.

34. Probates and administration may be granted in common form by district registrars in certain cases, if it appear by affidavit that the testator or intestate at his death had a fixed place of abode within the district, and that his personal estate, not held in trust, but without deducting anything on account of his debts, is under the value of 1500*l.*

35. Affidavit conclusive, and grant irrevocable.

36. District registrars not to make grants where there is contention, &c.

37. District registrar, in case of doubt as to grant, to take the directions of the judge.

38. District registrars to transmit lists every fortnight of probates and administrations, and copies of wills.

39. District registrars to preserve original wills.

40. Caveats.

41. Where personalty under 200*l.*, and real property under 300*l.*, county court to have jurisdiction.

42. Registrar of county court to transmit certificate of decree for grant or revocation of probate.

43. The judge of the county court to decide causes and enforce judgments as in other cases.

44. Affidavit of the facts giving the county courts jurisdiction to be conclusive, unless disproved while the matter is pending.

45. Appeal from the judge of the county court to court of common law.

46. Option of applying to Court of Probate in every case.

47. Lord Chancellor to make rules and orders regulating the procedure of county courts under the act.

48. Where a will affecting real estate is proved in solemn form, or is the subject of a contentious proceeding, the heir and persons interested in the real estate to be cited.

49. Where the will is proved in solemn form, or its validity otherwise decided on, the decree of the court to be binding on the persons interested in the real estate.

50. Heir in certain cases not to be cited, or affected by probate, where it is shewn to the court that the deceased was not known to be seised of or entitled to any real estate beneficially at the time of his death, or where the will would not pass or affect real estate.

51. Probate or office copy to be evidence of the will in suits concerning real estate, save where the validity of the will is put in issue.

52. As to costs of proof of will.

53. Original wills to be deposited in metropolis.

54. Calendars to be made up and printed.

55. Registrar to transmit printed copies to certain offices.

56. Official copy of whole or part of will may be obtained.

57. Administration pendente lite.

58. Court of Probate may appoint receiver of the real estate of any deceased person pending suit in the court touching the validity of any will by which his real estate may be affected, to receive all rents and profits of such real estate, with such powers of letting and managing such real estate as the court may direct.

59. Remuneration to administrators pendente lite, and receivers.

60. Discretion as to appointment of administrator in cases of insolvency, &c.

61. The 38 Geo. 3, c. 87, extended to administrators.

62. After grant of administration no person to have power to sue as an executor.

63. Revocation of temporary grants not to prejudice actions or suits.

64. Payments under revoked probates or administration to be valid.

65. Rights of an executor renouncing probate to cease, as if he had not been named in the will.

66. Sureties to administration bonds.

67. Bond.

68. Penalty on bond.

69. Power of court to assign bond.

70. Pending suits transferred to Court of Probate, except appeals.

71. Power to judges whose jurisdiction is determined to deliver written judgments.

72. Void and voidable probates and administrations.

73. Probates and administrations granted before this act comes into operation.

74. Probate or administration may be granted of personal estate not affected by the former grants.

75. Judges of present ecclesiastical courts and others to transmit all wills, &c. to the registry.

76. Penalty for default.

77. Safe custody of the wills of living persons.

78. This act not to affect the stamp duties on probates and administrations.

79. The registrars to deliver copies of wills, &c. to the Commissioners of Inland Revenue.

80. The 53 Geo. 3, c. 127, ss. 8, 9, repealed in part as to the Court of Probate.

81. Lord Chancellor to fix table of fees to be taken by officers of court and by officers of county courts.

82. Fees to be paid by stamps, except &c.

83. Fees collected by stamps, and paid to "the Testamentary Fee Fund Account."

84. Fees paid in money to be paid to "the Testamentary Fee Fund Account."

85. Power to provide for incidental expenses.

86. Compensation to registrars, &c. of existing courts.

87. For the protection of the interests of Viscount Canterbury.

88. The registry of Prerogative Court of Canterbury to vest in registrars of the court.

89. Compensation to Rev. R. Moore for building.

90. Time of payment of salaries, &c.

91. Drafts on Testamentary Fee Fund.

92. Power to Lord Chancellor to order surplus of Testamentary Fee Fund to be paid into the Exchequer. If fund insufficient to defray salaries, &c., Commissioners of the Treasury to provide for the same.

93. Rules and orders to be laid before Parliament.

Lord Brougham's Bill to amend the Law with respect to the Property of Married Women.

Sect. 1. The real and personal estate to which any woman who shall marry after this act shall have come into operation shall be entitled at her marriage shall be held and enjoyed by her to her separate use.

2. Any real or personal estate to which a married woman may during coverture become entitled, by gift, purchase, or devolution, or by her earnings or labour, or otherwise, shall be held by her to her sole and separate use.

3. A married woman, with respect to her separate estate under this act, shall be liable upon any contracts which she may enter into, or shall have entered into before coverture, and she may sue and be sued in respect thereof in her own name alone.

4. Any decree, judgment, rule, or order obtained against a married woman, in respect of any contract entered into by her, shall have the same effect upon her real and personal estate as if she were a feme sole.

5. A husband shall not be liable in respect of any debts, contracts, or engagements of his wife incurred or entered into by her before marriage, except to the value or amount of any real or personal estate of his wife which may have been or be settled upon the husband or the children of the marriage.

6. Separate estate of wife under this act liable, jointly with husband's estate, to any execution on joint contract; coverture not to be pleaded.

7. Wife not to be arrested in any suit or action under act.

8. Wife may dispose of, and deal with, and bequeath separate estate.

9. Upon the death of any married woman, her real and personal estate shall be liable to her debts, contracts, and engagements, as if she had died a feme sole.

10. In the event of the death of a married woman intestate, her husband shall take the same estate, interest, or distributive share in such real or personal estate of or to which his wife shall die seised, possessed, or entitled to her separate use as aforesaid, as such married woman would have taken had such real or personal estate belonged to her husband, and he had died intestate.

11. Subject to the provisions hereinafter contained, the personal estate of such married woman, of or to which she shall be or become possessed or entitled to her separate use under the provisions hereinbefore contained, shall, if she have any children, be distributed between or amongst them equally; or if she have only one child, the same shall go and belong to such child; but if she have no child, then the same personal estate, subject as aforesaid, shall go or be distributed to or amongst such person or persons as would under the Statutes of Distribution be entitled thereto had such married woman died a feme sole.

12. Nothing in this act contained shall interfere with any settlement, or agreement for a settlement, made in consideration of any marriage, except as hereinbefore mentioned.

13. Interpretation of terms.

14. This act shall not extend to Scotland or Ireland.

15. This act may be cited as "The Married Women's Property Act, 1858."

16. This act shall come into operation on the 1st January, 1858.

MEMBERS RETURNED TO SERVE IN PARLIAMENT.—Lieut.-General Sir William John Codrington, K.C.B., for the borough of Greenwich, in the room of Peter Rolt, Esq., who has accepted the office of Steward of her Majesty's manor of Hempholme.—Robert William Kennard, Esq., for the borough of Newport, in the room of William Biggs, Esq., who has accepted the office of Steward of her Majesty's Chiltern Hundreds.—Thomas Matthias Weguelin, Esq., for the town of Southampton, in the room of Sir A. J. E. Cockburn, Knt., appointed Chief Justice of the Court of Common Pleas.—James Clay, Esq., for the town of Kingston-upon-Hull, in the room of Sir W. H. Watson, Knt., appointed one of the Barons of the Court of Exchequer.—John James Hope Johnstone, Esq., for the county of Dumfries, in the room of the Right Hon. Archibald William Douglas, commonly called Viscount Drumlanrig, now Marquis of Queensberry, a Peer of Great Britain.—The Right Hon. James Stuart Wortley, re-elected for the county of Bute, on his appointment to be her Majesty's Solicitor-General.—Richard Ker, Esq., for the borough of Downpatrick, in the room of the Hon. Charles Stewart Hardinge, now Viscount Hardinge, summoned to the House of Peers.—George Clive, Esq., for the city of Hereford, in the room of Sir Robert Price, Bart., who has accepted the office of steward or bailiff of her Majesty's manor of Northstead.

tingdonshire, farmer, March 6 at 1, London.—*George Cowell*, Claypath, Durham, innkeeper, March 13 at half-past 11, Newcastle-upon-Tyne.—*John H. Mason*, Blaydon, Durham, glass bottle manufacturer, March 19 at half-past 11, Newcastle-upon-Tyne.—*John Haldane*, Leeds, corn factor, March 6 at 11, Leeds.—*Dan Asquith*, Halifax, innkeeper, March 6 at 11, Leeds.—*Samuel Biggin* the younger, Sheffield, saw manufacturer, March 7 at 10, Sheffield.—*Samuel G. Kidd*, Kingston-upon-Hull, seed crusher, March 25 at 12, Kingston-upon-Hull.—*Wm. Overton*, Leamington Priors, Warwickshire, builder, March 9 at half-past 10, Birmingham.

To be granted, unless an Appeal be duly entered.

Henry Keyte, Church-court, Old Jewry, silk manufacturer.—*G. K. King*, Brighton, dealer in embossing presses.—*W. Feere*, Peterborough, Northamptonshire, publican.—*Robert Helsby* and *Joseph Helsby*, Garston, Childwall, and Warrington, Lancashire, builders.—*William Briscoe*, Ashton-under-Lyne, Lancashire, timber dealer.

Petitions Annulled.

David Smith, Duke's-road, St. Pancras, licensed victualler.—*John Atkinson*, Queen's-gardens and Westbourne-grove, Bayswater, builder.

Partnership Dissolved.

Wm. Kell and *Thomas H. Apedaile*, Gateshead, Durham, attornies-at-law and solicitors.

Tuesday, *Feb.* 17.

Bankrupts.

PETER GEORGE FOSCOLO, Dunster-court, Mincing-lane, City, corn merchant, (trading under the style or firm of P. G. Foscolo & Co.), Feb. 26 at 11, and April 2 at 12, London: Off. Ass. Bell; Sols. Lawrance & Co., Old Jewry-chambers.—Pet. f. Feb. 16.

RICHARD FERNELL, Aldermanbury, City, commission agent, Feb. 24 at 11, and March 26 at 2, London: Off. Ass. Bell; Sols. Venning & Naylor, Tokenhouse-yard.—Pet. f. Feb. 6.

THOMAS BUTT, Littlehampton, Sussex, ironmonger, Feb. 26 and April 3 at 12, London: Off. Ass. Cannan; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, Bucklersbury.—Pet. f. Feb. 16.

GEORGE INGERSENT, late of the Mall Tavern, the Mall, Notting-hill, licensed victualler, and now of the Mall, Notting-hill, builder, Feb. 27 at half-past 1, and April 3 at 1, London: Off. Ass. Whitmore; Sol. Lindus, 5, South-square, Gray's-inn.—Pet. f. Feb. 16.

HENRY CAMPIN, Watling-street, City, warehouseman, Feb. 27 at half-past 2, and April 7 at 1, London: Off. Ass. Lee; Sols. Reed & Co. 59, Friday-street, Cheapside.—Pet. f. Feb. 17.

ALFRED BLACKMORE, High-street, Shoreditch, hosier, March 4 at 12, and April 6 at 2, London: Off. Ass. Nicholson; Sols. J. & J. H. Linklater & Co., 17, Sise-lane.—Pet. f. Feb. 17.

FREDERICK MARTIN, Brighton, innkeeper, March 3 at half-past 1, and March 31 at 12, London: Off. Ass. Stansfeld; Sols. Grane & Co., 23, Bedford-row, London.—Pet. f. Feb. 11.

JAMES WALKER, Walsall, Staffordshire, bridle cutter, Feb. 28 and March 21 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Sheldon, Wednesbury; Knight, Birmingham.—Pet. d. Feb. 12.

THOMAS BARNETT, Ironbridge, Shropshire, butcher, March 4 and 23 at half-past 10, Birmingham: Off. Ass. Bittleston; Sol. Knight, Birmingham.—Pet. d. Feb. 13.

WILLIAM ATTEWELL WANE, Highworth, Wiltshire, grocer, March 2 and 31 at 11, Bristol: Off. Ass. Miller; Sols. Browne, Swindon; Prideaux, Bristol.—Pet. f. Feb. 6.

WILLIAM ROBINSON, Haversham-with-Milnthorpe, Westmoreland, licensed victualler, Feb. 26 at 11, and March 26 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Wilson, Kendal; Hoyle, Newcastle-upon-Tyne.—Pet. f. Feb. 4.

ALEXANDER ALCOCK NEVINS, Liverpool, merchant, March 3 and April 6 at 11, Liverpool: Off. Ass. Cazenove; Sols. Evans & Son, Liverpool.—Pet. f. Feb. 14.

THOMAS FOWLER RAYMOND, Liverpool, commission merchant, March 2 and April 6 at 11, Liverpool: Off. Ass. Cazenove; Sol. Booker, Liverpool.—Pet. f. Feb. 6.

JOSEPH MASCALL, Wolverhampton, Staffordshire, grocer, Feb. 28 and March 21 at half-past 11, Birmingham: Off. Ass. Bittleston; Sols. Kitson, Wolverhampton; Knight, Birmingham.—Pet. d. Feb. 14.

JOSEPH SANKEY, Salford, Lancashire, wheelwright, March 2 and 23 at 12, Manchester: Off. Ass. Pott; Sols. Vickers & Diggles, Manchester.—Pet. f. Feb. 16.

Meetings.

George Chamberlain the younger, Crawford-street, St. Marylebone, lead merchant, March 12 at 1, London, last ex.—*William Wenden*, Great Bromley, Essex, cattle dealer, March 6 at 11, London, last ex.—*Jacob Isaac de Jonge*, Mark-lane, City, merchant, March 3 at 12, London, aud. ac.—*John Bishop*, Crosby-hall-chambers, Bishopsgate, City, and Grosvenor-lodge, Maiden-lane, Highgate, wine merchant, March 3 at 2, London, aud. ac.—*Thomas Cantrill*, Rivers-terrace, York-road, King's-cross, railway grease manufacturer, March 3 at half-past 2, London, aud. ac.—*Frank Broadhurst Farebrother*, *George William Bremner*, and *Joseph Henry Collyer*, Stockwell, Surrey, and Manchester, oil merchants, March 3 at 11, London, aud. ac.—*Samuel Bradley*, Mark-lane, City, corn factor, March 10 at 2, London, div.—*Edmund Goddard*, London-wall, Old Jewry, and Fenchurch-street, and Aldgate, provision dealer, March 11 at 1, London, div.—*John James Vonder Heyde* and *Christopher Octavus Vonder Heyde*, Lower Thames-street, City, tobacco manufacturers, March 10 at 2, London, div. sep. est. of *John James Vonder Heyde*.—*Ann Sophia Poile*, Great Suffolk-street, Southwark, pawnbroker, March 10 at half-past 1, London, div.—*Samuel Woods*, Weybridge, Surrey, builder, March 11 at half-past 1, London, div.—*James Gutteridge*, Elizabeth-street, Eaton-square, horse dealer, March 11 at 1, London, div.—*Morris Roberts Syers*, *James Walker*, and *Daniel Backhouse Syers*, Ball-alley, Lombard-street, City, and Liverpool, merchants, March 11 at half-past 11, London, div.—*Robert Yallowley Barnes*, City-road, Middlesex, floor-cloth manufacturer, March 11 at 11, London, div.—*William Henry Broadhead* and *William Hudson*, Nottingham, builders, March 10 at half-past 10, Nottingham, aud. ac. and div.—*John Milligan*, Chorlton-upon-Medlock, Manchester, draper, March 13 at 12, Manchester, aud. ac.; March 20 at 12, div.—*Donald M'Gregor*, Chorlton-upon-Medlock, Lancashire, travelling draper, March 12 at 12, Manchester, aud. ac.; March 19 at 12, div.—*Simeon Lord* and *Edward Lord*, Bacup, Lancashire, millwrights, Feb. 25 at 12, Manchester, aud. ac.; March 11 at 12, div.—*John Hyde*, Stockport, Cheshire, spindle maker, March 9 at 12, Manchester, aud. ac.; March 11 at 12, div.—*John Barton* and *George Barton*, Manchester, copper roller manufacturers, March 2 at 12, Manchester, aud. ac. joint est., and sep. est. of *George Barton*; March 16 at 12, div. joint est., and sep. est. of *George Barton*.—*Edw. T. Bradshaw*, Manchester, dealer in bricks, March 10 at 12, Manchester, div.—*Samuel Priestley*, Accrington, Lancashire, grocer, March 11 at 12, Manchester, div.—*Robert Prudhoe*, Durham, grocer, March 12 at 12, Newcastle-upon-Tyne, div.—*Michael Byers* and *Thomas Byers*, Monkwearmouth Shore, Durham, shipbuilders, March 11 at 11, half-past 11, and half-past 12, Newcastle-upon-Tyne, div.—*John Richardson* the younger, Cockermouth, Cumberland, common brewer, March 10 at 11, Newcastle-upon-Tyne, div.—*John Ridgway*, Liverpool, merchant, March 12 at 11, Liverpool, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Moss Alfred Lewis and *Jacob Lewis*, Fore-street, Cripplegate, lithographic printers, March 11 at 12, London.—*Wm. Hartz*, Mark-lane and Fenchurch-street, City, merchant, March 11 at 1, London.—*George Danby*, Watford, Hertfordshire, wine merchant, March 11 at 1, London.—*Harriet Rose*, Lynn, Norfolk, milliner, March 11 at 2, London.—*C. Brown*, Oxford-street, milliner, March 10 at 12, London.—*Nathaniel Elliott*, Manchester, dealer in cigars, March 12 at 1, Manchester.—*Robert Jukes Stirrop*, Ironbridge, Shropshire, currier, March 12 at 10, Birmingham.—*John Doughty*, Castle Donnington, Leicestershire, builder, March 24 at half-past 10, Nottingham.

Petitions Annulled.

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MEETINGS.

George Chamberlain the younger, Crawford-st., St. Marylebone, lead merchant, March 12 at 1, London, last ex.—*Charles H. Davis*, Deptford, Kent, builder, March 3 at 1, London, last ex.—*Thomas Wells*, Dorset-place, Clapham-road, Surrey, grocer, March 3 at half-past 1, London, last ex.—*Francis Boyd*, Tynemouth, Northumberland, grocer, March 6 at half-past 11, Newcastle-upon-Tyne, last ex.; March 19 at 1, div.—*Edmund Goddard*, London-wall, Old Jewry, Fenchurch-street, and Aldgate, City, provision dealer, March 4 at 12, London, aud. ac.—*Henry Christian*, Mincing-lane, City, coffee merchant, March 4 at 11, London, aud. ac.—*John P. D. Stephens*, Brabant-court, Philpot-lane, City, wine merchant, March 4 at 12. London, aud. ac.—*Abraham Jacobs*, *John Jacobs*, and *Henry Jacobs*, Crown-st., Finsbury, merchants, March 4 at 11, London, aud. ac.—*P. E. Henderson*, Cannon-street, City, civil engineer, March 4 at 11, London, aud. ac.—*Joseph Elteen*, High-street, Kensington, grocer, March 5 at half-past 10, London, aud. ac.; March 14 at half-past 11, div.—*Wm. H. Russell*, Strand, blacking manufacturer, March 6 at 11, London, aud. ac.; March 13 at 12, div.—*Samuel Harvey*, Cardiff, Glamorganshire, outfitter, March 5 at 11, Bristol, aud. ac.—*Margaret Jane Stoveld*, Blyth, Northumberland, ship builder, March 4 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Simeon Lord* and *Edward Lord*, Bacup, Lancashire, millwrights, March 3 (and *not* Feb. 25, as before advertised) at 12, Manchester, aud. ac.—*Frederick Cook*, Oldham, Lancashire, machine maker, March 3 at 12, Manchester, aud. ac.—*John Ridgway*, Liverpool, merchant, March 5 at 11, Liverpool, aud. ac.—*John G. Claus*, Liverpool, merchant, March 6 at 11, Liverpool, aud. ac.; March 13 at 11, div.—*James Griffin*, Liverpool, poulterer, March 4 at 11, Liverpool, aud. ac.; March 17 at 11, div.—*Stephen Amer*, Bradford, Yorkshire, grocer, March 24 at 11, Leeds, aud. ac. and div.—*Edward Wood*, Bingley, Yorkshire, worsted spinner, March 24 at 11, Leeds, aud. ac. and first and fin. div.—*John Burnley*, Batley, Yorkshire, cloth manufacturer, March 5 at 11, Leeds, aud. ac.—*Wm. Williford*, Scarborough, Yorkshire, wine merchant, March 5 at 11, Leeds, aud. ac.—*George B. Hirst*, Halifax, Yorkshire, cloth merchant, March 5 at 11, Leeds, aud. ac.—*Thomas Nicholson*, Leeds, machine maker, March 6 at 11, Leeds, aud. ac.—*Charles Van Loke*, Bread-street, City, woollen warehouseman, March 13 at 1, London, div.—*Wm. O. Young*, Sun-court, Cornhill, City; Manchester, and Liverpool, insurance broker, March 13 at 1, London, div.—*Frank B. Farebrother*, *George William Bremner*, and *Joseph H. Collyer*, Stockwell, Surrey, and Manchester, oil merchants, March 21 at 12, London, div.—*Robert Saul* and *Thomas Kirby*, Preston, Lancashire, joiners, March 26 at 1, Manchester, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Robt. Henry Adamson, John-street, Berkeley-square, wine merchant, March 14 at half-past 11, London.—*Thomas Watson*, Artillery-place, Finsbury-square, mining agent, March 14 at 12, London.—*Joseph James Reynolds*, Threadneedle-street, City, mining broker, March 14 at half-past 11, London.—*Henry J. Hawkins*, Midway-terrace, Lower-road, Rotherhithe, Surrey, licensed victualler, March 16 at 11, London.—*W. Ring*, Paddington, St. Marylebone, eating-house keeper, March 13 at 12, London.—*Jonas Charles Hermann Freund*, West-street, Finsbury, boarding-house keeper, March 13 at 1, London.—*John Unwin*, Seacombe, Cheshire, baker, March 13 at 11, Liverpool.—*John Alltree*, Liverpool, tailor, March 13 at 11, Liverpool.—*John Haworth*, Shaw Clough, Rossendale, Lancashire, spinner, March 13 at 2, Manchester.—*J. Berry* and *Thos. Berry*, Rochdale, Lancashire, machinists, March 13 at 1, Manchester.—*Samuel Bayley*, Wednesbury, Staffordshire,

[*For continuation of Gazette, see p.* 83].

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THE JURIST.

LONDON, FEBRUARY 28, 1857.

THE important bill relative to "the property of married women," introduced by Lord Brougham, and read the first time in the House of Lords, is well deserving of our serious consideration. Its main and leading principle is to give to a married woman, in the absence of contract, the same power over her property and earnings as if she were a feme sole. That the laws as affecting the property of married women are imperfect and unjust will, we believe, be admitted by most persons who will dispassionately examine them. It cannot, however, but be admitted that the mode in which they ought to be amended in the most efficient manner is a question upon which there is much difference of opinion.

A short summary of the common law, as affecting the property of married women, and the modifications introduced therein by Courts of equity with the object of correcting its imperfections and severity, will perhaps be useful in order to enable us to form a correct opinion upon this interesting and important subject.

"By marriage," it is observed by Blackstone in his Commentaries, (1 Bl. Com. 442), "the husband and wife are one person in law; that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of her husband. . . . Upon this principle of an union of persons in husband and wife depend almost all the legal rights, duties, and disabilities that either of them acquire by the marriage." In consequence of this maxim, the husband upon marriage retains all his own property, and at the same time acquires in most cases absolute dominion over the property of his wife. The wife, in fact, at law becomes a mere nonentity; she can neither sue nor be sued; and except under a power, or as to personalty by the permission of her husband, she can make no will; while on the other hand he becomes liable for necessaries supplied to her, and for debts incurred by her previous to her marriage.

To enter more into particulars. Upon marriage, the husband retains the whole of his own personal property of every kind, and also his chattels real, as leaseholds; his wife during his life takes nothing.

The husband, however, becomes the absolute owner of the personalty in the possession of his wife at the time of marriage, or which may accrue to her during the continuance of the coverture, such as goods and chattels or money either given to or earned by her. He also becomes absolute owner of such of her choses in action—that is to say, such of her personal property—as are not capable of immediate tangible possession, as debts owing to her, arrears of rent, legacies, residuary personal estate, money in the funds, &c., as he may have reduced into possession during the coverture; and if she dies in his lifetime before he has done so, he will become absolutely entitled to them as her administrator. In one event only, that of the husband's death in the life of his wife, will she become entitled by survivorship to such of her own choses in action as her husband may not have reduced into possession; nor will such right be defeated by the assignment of her husband, whether it be by operation of law, as upon his bankruptcy or insolvency, or for valuable consideration, as the assignees will merely stand in the same position as the husband.

If the wife has a reversionary interest in personalty which falls into possession during the life of the husband, he may acquire the absolute ownership thereof; although, if it do not fall into possession, he cannot, even with the consent of the wife, dispose of such interest so as to bind the right of the wife thereto by survivorship. (*Whittle* v. *Henning*, 2 Ph. 731).

With regard to his wife's leaseholds, the husband may during his life receive the rents, and he may alien the leaseholds, either absolutely by sale, or partially by mortgage, and may by doing so, either wholly or partially, as the case may be, defeat his wife's right, upon his death, to her leaseholds. They are liable also to execution for the debts of the husband, and will be forfeited to the Crown upon his outlawry or attainder. (Macq. 26). If, however, he die before his wife without having aliened the leaseholds, or without their having been taken in execution or been forfeited, she will take them by survivorship. Should he, however, be the survivor, he will take them jure mariti, and not as her administrator.

The result, therefore, is, that in the absence of contract upon marriage, the wife takes no interest in the personal property of her husband, while the only interest which she retains in her own is the *chance* of taking by survivorship any choses in action which the husband may not have reduced into possession, or any leaseholds which he may not have aliened.

With regard to his own real estate, whether for life or of inheritance, the husband on his marriage retains the sole property in it. With regard, however, to the real estate of the wife, the husband at once acquires a right to receive the rents and profits during her life, and he can alienate his interest therein without the concurrence of his wife. Thus the wife upon her marriage, during the life of her husband, takes no interest in his real estate, and retains no interest in the rents and profits of her own.

Upon the death of the wife during the life of her husband, he will become, as we have before seen, as her administrator, absolutely entitled to her choses in action not reduced into possession, and also to her leaseholds jure mariti. With regard to the wife's freeholds of inheritance, whether in fee or in tail, the husband, if there be issue of the marriage who might inherit the estate, will be entitled during his life to the whole of the estate as tenant by the curtesy, and of such right he cannot be barred by any act of the wife. With regard to real estate of inheritance, (subject to the curtesy of her husband), the wife may, under the Fines and Recoveries Act, with his consent, by deed acknowledged, after having been examined, apart from her husband, by a judge of one of the superior courts, or Master in Chancery, or commissioners, dispose of her freeholds of inheritance, but she can make no devise thereof except under a power; and if she do not so dispose of them during her life, her estates in fee-simple will descend to her heir-at-law, and her estates in fee-tail will go to the next person entitled under the entail.

With regard to the husband's property upon his death intestate, the wife is only entitled to one-third of his personalty if there are any children of the marriage, and to one-half if there are none, the other half going to the next of kin of the husband; but if he have no next of kin, as, for instance, if he be a bastard, it would go to the Crown rather than to the wife. (*Cave* v. *Roberts*, 8 Sim. 214). With regard to his freeholds of inheritance, whether in fee or in tail, her right to dower—that is to say, to one-third of the estate during her life—has by the Dower Act, 3 & 4 Will. 4, c. 105, been placed entirely in the power of her husband. Nothing, perhaps, will better illustrate the unfair manner in which women both have been and still are dealt with in respect to their property than by instituting a comparison between the provision which the husband takes out of his wife's freehold estates of inheritance as tenant by the curtesy, and that which the wife is entitled to out of his estates after his death in the shape of dower. It is true that the husband only becomes entitled to be tenant by the curtesy upon the actual birth of issue, who might have inherited; while to entitle the wife to dower it is only essential that her issue, if any, should be inheritable. The husband, however, is entitled as tenant by the curtesy to the *whole* estate of the wife for his life, while the wife is only entitled as dowress to *one-third* of his. Again: the husband was always entitled to be tenant by the curtesy, although the estate of the wife were equitable only; whereas by an absurd and unjust anomaly, arising from a decision of the House of Lords, the wife was not entitled to dower out of the equitable estate of her husband. This was a great hardship, inasmuch as by far the greater part of the land in this country has for a long period been vested in trustees, the interest of the husband being in general merely equitable. The late Dower Act cured this anomaly, by making women dowable out of equitable estates; but by a cruel mockery her right to dower (which formerly could not be affected by the husband alone, but required the consent of the wife by joining in a fine) was put at the mercy of her husband; for since the Dower Act no woman married after the 1st January, 1834, will be entitled to dower out of any estates absolutely disposed of by her husband in his lifetime or by his will, (sect. 4), and priority will be given to partial interests created by any disposition or will of the husband, and all debts, incumbrances, contracts, and engagements to which his land shall be subject, (sect. 5). So by the same act the husband may bar dower by a declaration in a deed (sect. 6) or will, (sect. 7); in the latter of which instruments he may render it subject to any conditions, restrictions, or directions, (sect. 9).

Above all, we must recollect that the testamentary power which is given to the husband, and withheld from the wife, enables him to leave her entirely without any provision. Thus, suppose a woman to have brought her husband a fortune of 100,000*l.*, which has not been settled, if he has not spent it during his life, or by dying intestate allowed only a portion of it to devolve upon his wife, he may by his will leave the whole of it to a mere stranger.

Hitherto we have principally confined ourselves to the strict legal rights of either party; let us now see what a Court of equity will do. The husband acquires the large interests which we have seen he takes in the property of his wife in consideration of the obligation which, upon marriage, he contracts, of maintaining her, and his children by her; but the common law is defective, inasmuch as it possesses no efficient means of insuring the performance of the duty which it imposes upon the husband, for the only *direct* remedy which the law affords is to compel a husband to maintain his wife and family, in order that they may not be chargeable on his parish. She has also an indirect remedy in her own hands—that of being able to bind her husband by her contracts for whatever comes within the definition of "necessaries."

The husband in the meantime, in many cases, has it in his power to alien all the property to which he is entitled jure mariti, or, upon his becoming bankrupt or insolvent, it vests in his assignees for the benefit of his creditors; and thus his wife, however great may have been the fortune he received from her, may with her children be left utterly destitute.

Courts of equity have from a very early period endeavoured to remedy this deficiency in the common law, by giving to the wife, in certain cases, a right to a provision out of her own property for herself and children; this right is called her "equity to a settlement." The wife's equity to a settlement arose thus—when the husband made an application to a Court of equity in order to obtain the property of his wife, the Court refused its assistance, except upon the terms of his making a settlement upon his wife and her children, if he had not already made a sufficient provision for her, and she required a settlement to be made. Eventually the wife herself was allowed to originate proceedings in equity for the same purpose. Where, however, the husband refused to make a settlement, the Court would retain the capital in its own hands, allowing the husband the interest so long as he was living with and maintained his wife, but if he neglected to do so, or deserted her, the Court of equity would pay the whole of the interest to the wife; while, the husband not being able to get the capital into his possession, the wife, if she survived him, would become entitled to it by survivorship. The principle thus gradually established and acted upon by Courts of equity is now this—that a *wife is entitled to a provision out of her own property for herself and her children;* and that, as far as it lies within the power of Courts of equity, they will prevent the husband obtaining possession of his wife's property, if she insists upon her equity, unless or until he has made a proper settlement upon her. This principle is indisputably far more just than the rule of the common law, which, as we have before seen, hands over to the husband the property of the wife, without any attempt to insure the performance of the obligation of properly providing for her; and if this be so, no valid reason can be alleged why the principle enforced in a court of equity, with respect to the property of married women which may fall within its cognisance should not be extended to every kind of property accruing to the wife during marriage; in other words, why what is equity in this respect should not become the law. It is absurd that the right of the wife should depend upon the nature of the property—a mere accident. For instance, suppose a married woman is entitled to a bond debt for 10,000*l.*; at present, the husband, by taking proceedings in a court of law in the name of himself and his wife, may obtain payment of it, and cannot be compelled, either by a Court of law or a Court of equity, to settle any part of it upon his wife. If, on the other hand, it were a sum of money in the Court of Chancery, or a legacy in the hands of executors or trustees, upon proceedings being taken in equity before payment be made thereof to the husband, a Court of equity would order a settlement to be made.

Perhaps the greatest hardship endured by married women is in those cases where, either in the lower ranks by manual labour, or in the educated classes by their literary or other pursuits, they obtain an income by their own personal exertions; for the law refuses, and equity is powerless, to protect them in the enjoyment of it, even in those cases where they have been deserted or ill-treated by their husbands.

Again: although we have seen that at law the existence of a woman on marriage becomes as it were merged in that of her husband, Courts of equity, recognising her separate existence, have for a long period allowed her to enjoy property settled to her separate use, to dispose of it, or the products of it, and to enter into contracts with respect to it, in the same mode as she could do with respect to the same property were she unmarried. Property left to the separate use of a married woman is generally preserved from the legal rights of the husband by vesting it in trustees; but if none are appointed, a Court of equity converts the husband into a trustee for her. Moreover, in order to protect the wife's separate estate from the influence which the husband might exercise over her, Courts of equity, departing from a well-known rule of law, by which the power of alienation is always considered incidental to property, have allowed a clause against anticipation to be attached to the separate use, so that a married woman could only from time to time, as it became due, receive the income of property settled to her separate use, but could not by any act alien or incumber her future income.

Having shewn how far Courts of equity have departed from the strict rules of law, by the recognition of the separate existence of married women, and by acknowledging and enforcing their right, even in the absence of contract, to a provision out of their own property—improvements upon the law, great, no doubt, but still imperfect—we propose at some future time to examine Lord Brougham's bill, discussing its principle, the provisions by which it is proposed to be carried out, and the probability of its affording a remedy for the defects and injustice of the law as it at present exists.

GUARDIANSHIP IN CHANCERY.

(*From a Correspondent*).

The case of *Alicia Race* raises some legal and constitutional questions of great interest and moment. The Court of Queen's Bench, in a solemn judgment, pronounced the mother guardian for nurture—i. e. especially for *education*, as well as maintenance; and the Vice-Chancellor has taken the child from the mother, and committed her to the care of strangers. It is of no little interest to inquire upon what principle rests the jurisdiction thus asserted. At common law the Crown had no right of *guardianship*, except over the heirs of its own tenants in capite. This appears plainly from Magna Charta, the very first articles of which refer to wardship, and jealously protect the heirs of those who thus held immediately of the Crown from royal extortion and oppression. That these alone should be thus protected by the charter clearly shews that as to any others the Crown had no claim of wardship; and the right carried with it such valuable incidents under the feudal system that it was asserted and contested keenly and constantly both by the Crown and by individual knights and nobles, so long as the feudal system existed. The right of guardianship in chivalry belonged to the lord of whom the lands were held, and only applied to heirs of lands held by knight service. It applied, as we find from Dalrymple, both to males and females, and terminated, save for certain purposes, at fourteen, the legal age of discretion. For heirs of lands not held in chivalry, but in "socage," there was *no* guardian in chivalry, and no right of guardianship in the Crown, whose right only existed in cases of tenancy by knight service. The father could in his lifetime appoint a guardian in chivalry; but he had not at common law the right of appointing a guardian by testament; and consequently, on his decease without having appointed a guardian, the lord, whether an individual or the Crown, assumed the position of guardian, supposing the lands to be held by knight service. If, however, they were not so held, but in socage, or if there were no lands descendible, then the mother was at common law guardian by nature for nurture until the age of fourteen. This was established, as against strangers, as long ago as the 9 Edw. 4, and on the case so establishing it the recent decision of the Queen's Bench mainly proceeded. That case, it is true, established the mother's right as against strangers; and there are plenty of cases shewing that her right yielded to that of guardian in chivalry. But where there was no guardian in chivalry—and the right of the Crown only existed in cases in which it held that position—her right by survivorship was clear at common law. One of the duties of guardianship was, as Coke says, to educate the ward virtuously, and especially to preserve the ward from "disparagement" in marriage—that is, it was the guardian's function to see that the ward was duly educated and married, according to his or her proper rank and position in society. No doubt the Crown was always, as parens patriæ, bound to protect infants—and not infants alone, but all persons, infant or adult—from ill-usage or abuse to the person. No doubt Chancery, as a court of conscience, always had, and even so early as the reign of Henry VI can be proved to have exercised, jurisdiction over trusts. But the Crown was not at common law guardian of any but its own wards; and it had and could have no wards but such as were heirs of its own tenants—i. e. those who held of the Crown. No precedents can be found of writs on the part of the Crown as to guardianship, save such as contain the words "qui tenuit de nobis in capite;" and cases can be cited from the Year Books to shew that even after the Court of Chancery had asserted its jurisdiction, the Crown was not allowed, either at common law or Chancery, (though surely, as this is so far a question, really, of common law, the forum cannot affect the question), to assert its right of wardship in any other case. Thus, for instance, in 1 Edw. 5 there was an information in Chancery by one who claimed to be the king's grantee of a guardianship against a stranger; and there was a demurrer, on the ground that no title in the Crown was shewn. It was deemed necessary to amend, by asserting tenure in chivalry. In 4 Hen. 7 an attempt was made, under the statute which gave the feudal lord the wardship of lands conveyed to uses, to set up for the Crown a claim, as ultimate and paramount lord of all the lands in the realm; but the claim did not succeed; and the Chief Justice laid down what is a very important principle upon this question, that the Crown can have no prerogative which it had not at common law and by immemorial usage. We have shewn that it had no right of guardianship by prerogative—i. e. in the presence of a legal guardian. No doubt it always had a power to control legal guardians in cases of abuse to the person or estate of the infant. But a jurisdiction to correct abuse in the exercise of a right is quite distinct from the possession of the right, or the power of withdrawing it at pleasure. The Crown is bound to protect the person and estate of any person against abuse. The only difference between the case of infants and adults is, that an adult is sui juris, and sues in his own person; an infant sues by prochein amy, or guardian, as against a stranger; and if the guardian is the wrongdoer the Crown could remove him or redress the wrong. So continued the law until the "Court of the King's Wards" was established by statute, the very title of which confirms the view deducible from the cases at common law, that the Crown was not guardian save of its own wards *in chivalry*—i. e. heirs of its own immediate tenants in capite. There are one or two cases in that court, cited by Reeve in his History of English Law, which, with *Ratcliffe's case*, (3 Rep. 37), fully support this argument; as do all the precedents of writs, whether in cancellariâ or at common law, all stating the ward to be the child of one "qui tenuit de nobis in capite." The Court of Wards and the feudal system were abolished in the time of Charles II, and the real nature and origin of the jurisdiction of Chancery in guardianship must be sought in the earliest cases in Chancery after that era. They are all subsequent to the statute of Charles II, giving the father the right of appointing a guardian by testament. At common law there was not that power; although the father, if a knight, could appoint a guardian in chivalry to act in his absence. The effect of the abolition of the feudal system was to abolish tenure in chivalry, and convert the tenure of all lands into tenure by socage; as to which the right of the mother by survivorship was at common law much the same as it was in the absence of any guardian in chivalry, or where there were no lands at all descendible at common law; the father's right in such cases survived to her; and so it would have been in all cases, but for the statute; and so it would be, after the statute, in any cases in which there was no testamentary guardian. Hence it would follow, that, save in cases of abuse, or cases of property in which there was an interest in the mother adverse to that of the infant, the mother's right would prevail in Chancery as against any one but the testamentary guardian. And this is the effect of the earlier cases on the subject immediately after the Revolution.

In the case of *Beaufort* v. *Bertie* (1 P. Wms. 703) the Chancellor said that the right of appointing a guardian devolved on the Court in consequence of the testamentary guardian having been attainted, and so civiliter mortuus. It does not appear that there was any mother surviving in that case; but it should seem from the language of the Court, that the Court has no jurisdiction, in the case of a testamentary guardian, on the ground of abuse, which it has not in the case of the father himself. In the case of *Eyre* v. *Shaftesbury* (1 P. Wms.) the right of the testamentary guardian was enforced, as against the mother, on the ground that the testamentary guardian was in loco paternis; which quite supports the view above submitted.

In the case of *Reynolds* v. *Lady Teynham* (9 Mod. 42) the House of Lords overruled a decree in Chancery, taking the child, at the instance of the testamentary guardian, from the mother, and giving him to two persons appointed by him for the purpose of education. This was a decision the more remarkable, because the testamentary guardian was from age unable to act, and had specially selected two other persons as competent to follow out the father's will as to the child's education in a particular religion. The Court of Chancery had not appointed another person guardian; and non constat that the Court would have refused to appoint the mother; but the decree of the Court below was reversed, and the child was left with the mother. The ground given was, that the guardianship could not be assigned; and the principle, no doubt, was that repeatedly acted on by the great Chancellor, Lord Hardwicke, that the mother's right by survivorship is not to be interfered with, save so far as either the terms of the statute, or the danger of abuse to the infant, may require. Thus, in *Mendez* v. *Mendez*, (3 Atk. 629), Lord Hardwicke said, "The mother *is guardian by nature*," and intimated an impression, that the expression of the father's wish in his will, that she should have the care of the children, made her also testamentary guardian by statute. In *Villareal* v. *Mellish*, (2 Swanst. 533; 2 Atk. 15), Lord Hardwicke took the children of a Jew from their grandfather, a Jew, to the mother, (there being no testamentary guardian), although she had ceased to be a Jewess, declaring "that the father might have devised his right of guardianship, but that, not having done so, the right devolved to the mother; and the Court would not take the child from the mother unless when required to do so by the statute" —i. e. by the appointment of a testamentary guardian. So, in *Roach* v. *Garvan* (1 Ves. 158) and *Smith* v. *Marshall*, (2 Atk. 70), Lord Hardwicke said the surviving mother was guardian by nature. In *Butler* v. *Freeman* (Amb. 302) the same great judge laid it down, "that the Court would interfere, even as against a father, not on the footing of guardianship, but on the ground of the general right delegated by the Crown as pater patriæ in particular cases"—i. e. as he elsewhere explained, "in case of abuse to the infant's person or estate." So, there are cases, such as *Ex parte Warner*, (4 Bro. C. C. 101), in which the Court has taken the children from the father at the instance of the mother, as cases of immorality, &c. There are cases, again, like *Lyon* v. *Blenkin*, (Jac. 254), where the father has been held to waive his right of guardianship by voluntary acquiescence. In all these cases, where the Court acts as pater patriæ for the benefit of the infant, the ground of jurisdiction is the same in the case of the father as in that of the mother, and is regulated by the same principles. In no case, previous to the two cases we shall presently advert to, has the right of the mother as guardian been held to be displaced, save either by the superior statutable right of testamentary guardian, or by some definite danger of abuse to the person or estate of the infant, of the same nature as would lead the Court to interpose even against the father. In *Talbot* v. *Shrewsbury* (4 My. & C. 673) the mother was allowed to retain the child while he was under ten years, even from the testamentary guardian. In *Re Spence* (2 Ph. 247) the application was by the father against the relatives of the mother, who had absconded. There, no doubt, it was held that the jurisdiction of the Court was not confined to cases of property; but that must be taken with reference to applications by the father or the mother; or, if against either of them, it must be limited to cases in which, by the institution of a suit, an infant can be made a ward of Court, which, if it can be done at all by a stranger as against a parent, surely must be on the ground of abuse, or danger of abuse, to the person or estate of the infant. In *Warde* v. *Warde* (2 Ph. 786) the children were taken at her instance from the father, on the ground of immorality. In *Ex parte Flynn* (2 De G. & S. 457) a similar course was taken, in taking the children from an immoral father. In *Wellesley* v. *Beaufort*, (2 Russ. 1), where the same course was pursued, the House of Lords laid it down that the testamentary guardianship was a continuation of the paternal authority; which clearly implies, in conformity with the common law, that save so far as that authority is so continued by testament, it ceases with his death. That being so, any jurisdiction exercised against the mother must either be founded on abuse, or danger of abuse, as regards the infant's person or estate, or upon testamentary trust. The two grounds of jurisdiction are distinct, and indeed inconsistent. The latter has reference entirely to the father's will, and extends so far only as it is *expressed*. The former ground, as it gives jurisdiction even *against* the father during his life, is independent of his will after his death. It is not easy to see upon what principle the two cases of *In re North* (11 Jur. 7) and *In re Race* were decided; the former by Sir J. L. Knight Bruce, L. J., when Vice-Chancellor, and the latter by Sir R. T. Kindersley, V. C. In both cases the father was a Protestant. In the former case the wife, when he died, was a Protestant; in the latter a Roman Catholic. In the former case he left no will; in the latter he left a will, in which he expressed a hope that she would "do her duty *as a mother*," and also accompanied this with a letter expressly confiding the instruction of the children to her care. In both cases the children were taken from the mother, and confided to the care of strangers —of course against the will of the mother. In the former case there was no pretence of unfitness, and the only ground urged was, that the mother had become a Romanist. In the latter of the cases there was some attempt to impeach the character of the mother, but we understand the affidavits on that head were taken off the file, and that the decision went upon the same principle as *In re North*—that the father was a Protestant, and that the Court were bound to see that the children were brought up Protestants. Upon what principle? That is the question we find it difficult to solve. If on the principle of trust, and in carrying out the father's will, he had no power of carrying out that will, save by express testamentary trust, which in both cases was wanting; in the latter case, was in favour of the mother. The decision, then, in one case seems to do away with the *necessity* of the statute, and in the other case to do away with its *efficacy*. In the former case the father's will is pronounced to be enforced *without* any testament, in the latter case *against* it; for so far as he had expressed his intention, it was that the *mother* should bring up the children, which is hardly carried out by transferring them to the care of strangers. If the decisions are based on the ground of general control exercised by the Court as parens patriæ, for the benefit of the infant, as that proceeds upon no ground, as against the mother, which would not be valid as against the father, it should seem difficult to explain the application of that doctrine, except in the case of *In re Race*, possibly upon the ground of the mother's voluntary acquiescence for a year and a half in the child being educated by Protestants. But it has never yet been held that the bare permission to strangers to educate a child, without some permanent irrevocable provision being made, was enough to oust the right of parental guardianship; and in the present case there was no such provision until it was made *pending the suit*, and not then with the acquiescence of the *mother*. It has never before been held that the right of guardianship could be *purchased*, and that a colourable provision could be made the means of obtaining a locus standi in equity on a subject so delicate and so sacred. Altogether the case of *In re Race* (heard in private, and not reported) is not very reconcileable with the authorities, nor clearly referable to principle. Its having been heard in private makes it more desirable to direct attention to the cases; the more so, as we hear that the counsel for the mother did not argue the question of jurisdiction, (which we have dealt with). We observe, that in a case heard this week before the Lords Justices (*Stourton* v. *Stourton*) it has been argued that the religion of a Roman Catholic father must regulate the education of the child, the mother in that case having become a Protestant. We should say, in such a case, apart from express trust, that the mother could not be removed from the guardianship, save on the ground of some definite abuse; because, *apart* from abuse or express trust, her right by survivorship is as good as that of the father.

MERCANTILE-LAW CONFERENCE.—LAW OF BANKRUPTCY.

(Paper read by Mr. Commissioner Ayrton, concluded from p. 34).

"*Solicitors.*

"The costs of the solicitor constitute the most serious item in the expense of every bankruptcy. In my court at Leeds, in the five years from January, 1843, the aggregate amount of costs was 26,471*l.*, or above 5000*l.* a year. From this it is easy to form an estimate of the sum paid in all the courts. It appears to me that the solicitor receives too much out of each bankrupt estate. This is not because he is overpaid for what he does, but because he does too much; that is, he does business which other people ought to do, and which is not properly within the province of a solicitor to meddle with. This arose in the following manner:—Before the year 1832 the solicitor applied to the Lord Chancellor for each commission of bankruptcy, and he had what was termed the carriage of the commission—that is, he had the custody of it, and the management and control of the whole of the business thereunder. In those days it was jocularly said that a commission of bankruptcy was the most valuable commission which the Crown could confer upon a subject. In those days the assignees left everything to the solicitor, who on his part was nothing loth to accept the charge, knowing that he would be amply remunerated for his pains. In fact, he did everything, and was well paid for everything he did. Now, however, the scene is, or ought to be, totally changed. To take care of a bankrupt estate we have commissioners, registrars, an accountant, a taxing master, an official assignee, a creditors' assignee, a messenger, and broker; and if these officers do their duty, all that remains for the solicitor is a little, and usually but a little, law business. Nevertheless, the solicitor still transacts, and is paid for, much that has no relation to the science of law. The result is, that far too large a proportion of the expenses of bankruptcy is caused by the solicitor's ordinary bill of costs. The table of averaged expenses which I have before quoted shews that very nearly one-third of the whole expenses of bankruptcy consists of the costs of the solicitor. Now for the remedy. I propose to appoint a solicitor to every court, whose duty would be to act as official solicitor under every bankruptcy, and to be paid a fixed salary of 400*l.* or 500*l.* a year, such salary to be paid out of the same fund as the other officers of the court. The experiment of the official assignee in place of the creditors' assignee has been found highly successful. I believe that an official solicitor would be no less successful. I do not propose that it should be imperative on the creditors to have recourse to the official solicitor. They should be allowed to select any other solicitor if they think fit; only, in that case, the dividend would be reduced by the amount of the bill of costs. I do not perceive that this measure would be unfairly injurious to the Profession. Other great public bodies have their official solicitors, who are remunerated by fixed salaries, and why not that commercial chamber the Court of Bankruptcy? It is to be remembered that all the costs of a bankruptcy are paid in reduction of a dividend to be made of an estate already insolvent. I have already suggested various reductions in different branches of the Court of Bankruptcy, and the solicitors will have no just reason to complain if they are included in the reduction.

"*Proof of Debt.*

"According to the existing practice, a creditor who desires to prove his debt must either attend the court personally, or transmit an affidavit. The trouble, loss of time, and expense consequent on attending personally is often considerable, and the affidavit costs a sum important to a poor man; it can scarcely be less than from 16*s.* to 1*l.* As no oath or affidavit is required under a deed of assignment, or in the Insolvent Debtors Court, I do not perceive the necessity for one in the Court of Bankruptcy. I therefore propose to abolish both oath and affidavit. In lieu thereof let the bankrupt, or in his absence the official assignee, prepare a list of creditors, and let the bankrupt swear to the truth of this list, and let this suffice, unless the debt be disputed or doubted, in which case the official assignee should write to the creditor informing him of that fact, and requesting him to attend personally to establish his debt. When the time arrives for payment of the dividend, the official assignee may send, by post, the dividend cheque, (or warrant, as it is termed), which should be indorsed with a printed form of receipt, to be signed by the creditor, ending somewhat to this effect—'I declare that the bankrupt is now indebted to me in the sum of £—— for goods sold and delivered to him before his bankruptcy, and that I have received no security or satisfaction for my debt;' and let signing this declaration be punished as for perjury if untrue, and accompanied by the forfeiture of twice the amount of the dividend.

"*The Bankrupt's Balance-sheet.*

"The balance-sheet, as it is termed, is a document which every bankrupt is compelled to file in court before he is allowed to pass his last examination; it ought to contain an account of his debts and property, and a statement of his income and expenditure for a certain period before his bankruptcy. In my opinion a radical change is required in the matter of the balance-sheet, as to its form, as to the person who prepares it, and as to the payment for its preparation. As regards the form of the balance-sheet, it is an elaborate document. This result has been brought about by leaving the preparation of balance-sheets in the hands of a particular class of professed accountants. We all know the state of perfection to which pleadings had been brought by the pleaders a few years ago; we all know the state to which bills and answers in Chancery have been brought by the equity draftsmen; we all know the state to which deeds of conveyance have been brought by the conveyancers; and what is the state to which the balance-sheet has been brought by the accountant? Why, it is a complete work of art, requiring a skilful connoisseur to recognise its beauties. It too frequently is a work of commercial poetry or invention. Not one merchant in a thousand can understand it. Indeed nobody can, save the accountants who prepare them, and the officers of the Court of Bankruptcy, who are ex officio bound to understand. The sober truth is, that in a great majority of instances balance-sheets are costly waste paper; they are complex in form, they tend to mislead, they seldom exhibit the truth, they are unintelligible to the many, and nearly useless to the few who understand them, or think they understand. Then as to the person who prepares it. Till very lately, by one of the fictions of law, it was supposed to be prepared by the bankrupt himself: now, by the Bankrupt Act of 1849, the commissioners are allowed to know that it is prepared by an accountant, who has to be paid. It is my opinion that a simple form of accounts ought, in all ordinary cases, to be prepared by the official assignee, or by the bankrupt himself with the assistance of the official assignee. The question as to the preparation of the balance-sheet by the official assignee is one which has been discussed. I must not trouble this meeting with the arguments pro and con. It is enough to say that Mr. Commissioner Fane tried it in his court, and approved of it. I tried it in my court, and in my opinion the experiment was quite successful. It was also tried in another court, but the practice was put a stop to by the Lords Justices, who disapproved of it.

“ *That Punishments are inadequate and uncertain.*

“It appears to me that the complaint that the punishments inflicted upon bankrupts who offend against the laws of moral and mercantile honesty are inadequate and uncertain is a well-founded complaint. I submit that it should be a general principle, that in every case where a trader does not pay 10*s.* or 15*s.* in the pound, he ought to be considered and treated as an offender until he proves he is not one; that is, in other words, upon him should be cast the burthen of proving that his failure to pay 20*s.* in the pound is owing to circumstances over which he had no control. As the law now stands, the assignees are compelled to prove that the bankrupt has been guilty of some specified, definite offence; but this proof is always difficult, and not seldom impossible. Indeed, it may be stated roundly that a bankrupt can seldom be proved guilty of an offence unless he confesses it, or unless he has been wanting in sense as well as wanting in honesty. My opinion is, that a trader who pays less than 10*s.*, or perhaps 15*s.*, in the pound, ought not to have any sort of protection, or any certificate or other advantage from the Court of Bankruptcy, until he has proved that his insolvency is not owing to any gross default or immorality. If his failure and deficient assets are owing to circumstances over which he had no control, he will have not the slightest difficulty in proving such to be the case; whereas, on the other hand, the assignees might have the greatest possible difficulty in proving anything against the bankrupt, though they might entertain no moral doubt of his being a defaulter. With regard to particular offences, it appears to me that all the penal clauses of the Bankrupt Act require careful revision. One offence only will I refer to in particular—I mean bad bookkeeping. It appears to me that a heavy penalty should always be annexed where the bankrupt has not kept the best books which he could, taking into consideration his situation in life.

“ *Appeals on Certificates.*

“Before concluding this subject of punishment and this paper, I beg to say a few words with relation to a matter of some importance—that is, the present state of the appellate jurisdiction as regards bankrupts' certificates. The question of the amount of punishment to be inflicted by the Court of Bankruptcy generally arises on questions of granting, suspending, or refusing the certificate. It has been stated in a very public manner that an unfortunate difference of opinion exists between the Lords Justices and the Commissioners of the Court of Bankruptcy regarding the proper quantum of punishment to be affixed to different degrees of culpability in bankrupts applying for their certificates. No doubt it is the fact that on appeals the Lords Justices generally alter and modify the sentence of the commissioners, almost invariably reducing the quantum of punishment. But it will be asked, how can it be said with any propriety that a difference of opinion can exist between the commissioners and the Court of Appeal, seeing that it is the duty of the inferior tribunal to bow to the decisions of the Court of Appeal? It will at once be perceived that this is a difficult and delicate question to touch upon; but I think I may venture to state, as a general proposition, that in many of the appeals the Lords Justices have so differed from the commissioners on questions, sometimes of principle, sometimes of detail, of such a nature that the judgment of the one or the other must be fundamentally wrong on questions of common mercantile life and morals. The result appears to be, that in order to maintain that feeling of respect which ought to accompany every tribunal for the administration of justice, one of two things ought to take place—either the whole question of the certificate must be taken from the commissioner and transferred to the Lords Justices, or the appeal on questions of certificate must be abolished, and the decision left with the commissioner. As regards the first plan, it is tolerably certain that the Lords Justices would never tolerate the wearying labour of deciding in the first instance concerning bankrupts' certificates; even if their Lordships felt inclined to undertake the task, it is very doubtful whether they could possibly find the time; and if they could, still arises the question whether the public would endure the expense of taking all the country cases to London; and, finally, would their Lordships' decisions be satisfactory, seeing that the whole case up to that time had been before another tribunal? The result appears to me that the appeal on questions of certificate only ought to be abolished. But in leaving the decision in the hands of the commissioners alone, it must be remembered that lawyers are not born with any peculiar aptitude to judge of commercial matters; and their legal education and professional pursuits go very little way towards supplying what, like all other men, they have to learn upon the subject. Skill and knowledge on such matters are the slow growth of time and experience. The commissioner, sitting daily, attending daily to commercial matters, surrounded by men in trade and by solicitors connected with merchants, may be supposed in time to gain some portion of experience in commercial matters. But in order to guard the public against any erroneous views which the commissioner may take—he being, of course, liable to infirmity of judgment, exposed to mistakes, and, to take the worst possible view, even subject to caprices, all of which must be guarded against—the remedy will be to require that on questions of the last examination, or of certificates, if any of the parties (that is, the bankrupt, the assignees, or any opposing creditor) shall require it, two commercial men of the district—members of the chamber of commerce, if possible—not connected with the bankruptcy, but of the same trade as the bankrupt, shall sit with the commissioners, having a voice and vote in the determination of the case. With this guard, the appeal to the Lords Justices on such questions might be abolished with safety and advantage to all parties. That something should be done is clear. The habitual reversal or alteration by the Court of Appeal of the decisions of the commissioners—those frequent collisions of opinion about matters of common commercial life—must needs damnify one of the courts. I have just given judgment in a case which strongly illustrates the necessity of the assistance of commercial men. For two years past two partners, wool spinners, have been before me. Several of the principal creditors, and also the assignees, contend that the bankrupts have not accounted for, and have therefore concealed upwards of, 40,000lbs. weight of wool. On the one hand, a skilful accountant examined the bankrupts' books, and stated that he found this deficiency; on the other hand, the bankrupts brought forward a no less skilful accountant, who also examined the same books, and arrived at exactly the contrary conclusion, stating that the deficiency was or might be accounted for by waste of various kinds. It appeared to me that the bankrupts had been guilty of concealment, and I refused the certificates. Against the decision the bankrupts have appealed. Now, it would have been in the highest degree satisfactory to me to have had the assistance of some gentlemen connected with wool spinning, who would have known exactly what questions to put to the witnesses, and who would have known what weight to allow to their evidence, and who, from themselves inspecting the books and bringing their own knowledge to bear on the subject, would have been able to form a good opinion as to whether the alleged loss by waste really took place. But an appeal is gone to the Lords Justices. Among the questions which they will have to decide will be, whether this or that lot of wool has been fairly worked up and sold, or whether so many ounces per pound have or have not been wasted in the manufacture of this or that particular lot of wool. Can their Lordships trace 40,000lbs. weight of wool through a wool spinner's books any better than the commissioner could? If, therefore, the appeal is to continue to the Lords Justices, I think their Lordships ought to have associated with them on such occasions one or two mercantile men, in the same manner as I have suggested for the commissioner."

BILL IN PROGRESS.

Bill to prevent vexatious Litigation.

For preventing vexatious proceedings at law and in equity, be it enacted &c. as follows:—

Sect. 1. It shall be lawful for any person who hath or shall have any claim or demand against any other person, either at law or in equity, in respect of any debt, or matter in the nature of debt, or any land or other property, or any wrong, or any other matter of any kind whatever, to cite the person against whom he has or shall have such claim or demand to appear before a judge of the court having jurisdiction in the matter, to have the matter in dispute, or which may come into dispute, between the parties heard and advised upon by the said judge, which hearing and advice shall be called "Proceeding for Reconcilement;" and such judge shall appoint the times when and the places where he may please to sit and hold his court of reconcilement: provided that such court of reconcilement shall be holden by the judge of every county court constituted under the act of the 9 & 10 Vict. c. 95, at a convenient time during or after the ordinary sittings of the said judge in each place within his jurisdiction, notice being previously given thereof in some newspaper circulating within his jurisdiction.

2. The party citing shall first obtain leave from the said judge to come before him at the time and place to be named in the citation, and shall serve the citation on the other party two weeks at least before the said time of appearance; and the citation shall state shortly the matter of the claim or demand which the person citing hath against the other party, with the time and place whereat the judge is to sit and hear and advise in the matter.

3. The party so cited shall, at his own election, appear or not before the said judge; but he shall within one week after being so cited serve the party citing with a notice, in which notice he shall state whether he intends to appear or not; and such notice, with the proof of service of citation, may be given in evidence against the party cited, in any suit at law or in equity which may be brought by the party citing, for the purpose of proving that the party cited refused to appear before the judge in a court of reconcilement, which refusal may be taken into consideration in regard to costs in all cases where the costs, or any part thereof, are in the discretion of the court before which such suit shall come.

4. When the party citing has received notice from the other party that he intends to appear, he shall give notice thereof to the clerk of the judge five days before the time appointed for hearing and advising; and the parties shall at such appointed time appear personally, and without any attorney or counsel, before the said judge; and if either party fail to appear he shall pay reasonable costs to the other party appearing, to be taxed by the clerk, and to be levied in like manner as costs are levied according to the practice of the court to which such judge belongs; and if neither party shall attend, and neither shall give three days' notice of intending not to attend, both parties shall pay such reasonable fine as the judge shall impose, to be levied in like manner.

5. When the parties appear before the said judge he shall hear them state the matters of their respective claims or demands, and defences or answers, in the presence of each other, and shall give them his opinion and advice thereupon, and it shall be in their option to follow and abide by this advice or not, as they shall think fit; and in case they shall agree to abide by such advice, the substance thereof shall be reduced into writing by a memorandum, which shall be signed by the parties, and entered in a book of the clerk, to be called "the Reconcilement Book;" and such memorandum shall be final and binding on the said parties, and shall have the effect of a covenant under seal in all courts whatever, and an examined copy thereof may be given in evidence; and the party to whom any sum of money is by such memorandum agreed to be paid shall have execution, as in the case of a judgment in an action or suit before the said judge for such sum, against the party agreeing to pay, and not paying it at the time agreed upon in such memorandum; but if a party shall have agreed to do any other thing, and shall fail to do it, the other party shall not have execution, but shall and may sue upon such memorandum of agreement, and for breach of it, as upon a covenant under seal, and for breach of such covenant: provided always, that it shall be lawful for the said judge before whom the parties shall have appeared, after he shall have heard and advised upon the matter by them stated, to adjourn, if he think fit, the further consideration thereof to the next sitting of the court of reconcilement, at which sitting the said parties, if they attend, may declare whether or not they are minded to abide by his advice.

6. When any parties shall have been heard in any matter before any judge of a county court as aforesaid sitting in a court of reconcilement, and either of the said parties shall sue the other upon the same matter before the said judge by way of action, such party shall annex to his statement a notice, to be filed with the clerk along with the said statement, that the cause of action is some matter already heard before the said judge; and if the party suing shall omit to annex such notice, the party sued may annex it to his answer; and the clerk of such judge, upon such notice being so annexed by either party, shall make out a certificate of the matter thereof, whereupon the proceedings before the said judge shall cease, and the matter of the said suit shall and may be carried before a judge of some adjoining county, notwithstanding that the party sued shall not reside therein, anything in this act, or in the act of the 9 & 10 Vict. c. 95, to the contrary thereof in anywise notwithstanding; and the costs incurred by beginning the proceedings before the first-mentioned judge shall be costs in the cause.

7. The defendant in any action at law or suit in equity may, after having appeared to the writ of summons, writ in ejectment, bill, or claim, make application to any judge of the court for an order to stay proceedings until the plaintiff or one of the plaintiffs shall give security for the payment of the defendant's costs; and the said judge shall, if he thinks fit, summon the plaintiff or plaintiffs to appear and shew cause why such order to such process should not be made.

8. If the plaintiff or plaintiffs do not appear upon such summons, or if the judge upon hearing both parties is satisfied, regard being had to the nature of the action or suit and the circumstances of the plaintiff or plaintiffs, that security for the defendant's costs ought to be given, he may, if he thinks fit, order further proceedings to be stayed until the plaintiff or one of the plaintiffs give such security.

9. It is declared and enacted, that the powers given to the court, commissioners, or justices, by sect. 78 of the 1 & 2 Vict. c. 110, and to every court having jurisdiction in matters of insolvency by any act now in force, may be exercised by them in cases where the prisoner shall have been taken in execution for the costs of a vexatious or frivolous suit or action brought by him, as well as for the costs occasioned by any vexatious or frivolous defence or delay to any suit or action.

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed David Black, Gent., of Brighton, Sussex, to be a Commissioner to administer oaths in the High Court of Chancery in England.

MEMBERS RETURNED TO SERVE IN PARLIAMENT.—Capt. the Hon. William Smyth Bernard, for the borough of Bandon Bridge, in the room of the Hon. Francis Bernard, (commonly called Viscount Bernard), now Earl of Bandon, a peer of Ireland.—The Right Hon. William Monsell, for the county of Limerick, on being appointed President of the General Board of Health.—John Bagwell, Esq., for the borough of Clonmell, in the room of John O'Connell, Esq., who has accepted the office of Clerk of the Crown and Hanaper in Ireland.—Charles Wykeham Martin, Esq., for the Western Division of the county of Kent, in the room of Sir Edmund Filmer, Bart., deceased.

grazier, March 16 at half-past 10, Birmingham.—*William Smith*, Halesowen, Worcestershire, builder, April 16 at 10, Birmingham.

To be granted, unless an Appeal be duly entered.

Francis Seaward, Abchurch-yard, Abchurch-lane, City, licensed carman.—*Marmaduke Irish*, Maidenhead, Berkshire, licensed victualler.—*Geo. Ledward*, Liverpool, boiler maker.—*John Parr*, Wolverhampton, Staffordshire, woollendraper.—*John Hodder*, Birmingham, grocer.—*Wm. John Pepper*, Coventry, Warwickshire, printer. — *David Buckler*, Birmingham, builder.—*John Barfoot*, North Stoneham, Hampshire, cattle salesman.—*James Edward Lose*, Cricklewood, Middlesex, builder.—*John Eeles Littleboy*, corn merchant, Liverpool.—*Owen Thomas*, Manchester, tailor.—*E. Wood*, Bingley, Yorkshire, worsted spinner.—*John Vayro*, Ripon, Yorkshire, linendraper.—*Jas. Scott*, Batley Carr, Yorkshire, rag merchant.—*H. Inman*, Bradford, Yorkshire, shop-keeper.

PARTNERSHIP DISSOLVED.

Benjamin Lovibond, Bridgwater, Somersetshire, and *Wm. Glyde*, Weston-super-Mare, attornies-at-law, (carrying on business at Weston-super-Mare under the style or firm of Lovibond & Glyde).

TUESDAY, *Feb.* 24.

BANKRUPTS.

EDWIN SHEPHERD and **WALTER SHEPHERD**, Crane-court, Fleet-street, lozenge manufacturers, March 6 at half-past 12, and April 9 at 1, London: Off. Ass. Bell; Sol. Chidley, Basinghall-street.—Pet. f. Feb. 23.

WILLIAM SADGROVE the younger and **RICHARD RAGG**, Eldon-street, Finsbury, and Dunning's-alley, Bishopsgate-street, cabinet makers, March 10 at half-past 2, and April 7 at 2, London: Off. Ass. Lee; Sol. Spyer, 30, Broad-street-buildings.—Pet. f. Feb. 19.

FREDERICK FRANCIS SHAW, Blackfriars-road, Surrey, ironmonger, March 13 at 11, and April 20 at 1, London: Off. Ass. Nicholson; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, London; Hodgson & Allen, Birmingham.—Pet. f. Feb. 10.

SLEATER GEOGHEGAN, Palsgrave-place, Strand, engraver, March 13 at 12, and April 20 at 11, London: Off. Ass. Pennell; Sol. Brisley, 4, Pancras-lane, Cheapside.—Pet. f. Feb. 23.

ROBERT GRAVES, Gravesend, Kent, corn merchant, March 6 at 11, and April 17 at half-past 11, London: Off. Ass. Cannan; Sol. Crafter, 168, Blackfriars-road, Surrey.—*Pet. f. Feb.* 19.

JOSHUA DOWNING STANBURY, Richmond, Surrey, draper, March 6 at half-past 1, and April 3 at 2, London: Off. Ass. Whitmore; Sols. Mason & Sturt, 7, Gresham-street, London.—Pet. f. Feb. 21.

THOMAS WHITE the younger, Portsmouth and Gosport, Southampton, shipbuilder, March 11 at 2, and April 7 at 1, London: Off. Ass. Stansfeld; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. Feb. 21.

FREDERICK MORSE, Dunster-court, Mincing-lane, spice merchant, (trading under the style or firm of Frederick Morse & Co.), March 7 and April 7 at 12, London: Off. Ass. Stansfeld; Sol. Hill, 12, Tokenhouse-yard.—Pet. f. Feb. 20.

SAMUEL SMITH, Derby, iron merchant, March 10 and 31 at half-past 10, Nottingham: Off. Ass. Harris; Sols. J. & J. Simpson, Derby; Wadsworth & Wadsworth, Nottingham.—Pet. d. Feb. 17.

THOMAS KING, Spalding, Lincolnshire, licensed victualler, March 10 and 31 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Brown, Lincoln.—Pet. d. Feb. 23.

WILLIAM SMITH, Mansfield, Nottinghamshire, licensed victualler, (also carrying on business with John Brown, as confectioner), March 10 and 31 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. f. Feb. 20.

JAMES GRIFFITHS, Bristol, and Cardiff, Glamorganshire, builder, March 9 and April 7 at 11, Bristol: Off. Ass. Acraman; Sol. Prideaux, Bristol.—Pet. f. Feb. 21.

JAMES ARMSTRONG, Berwick-upon-Tweed, linendraper, (carrying on business under the firm or style of Smith & Armstrong), March 10 at 12, and April 21 at 11, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Moore, Carlisle; Hoyle, Newcastle-upon-Tyne.—Pet. f. Dec. 26.

LORENS THEODOR WANG, Sunderland, Durham, timber merchant, March 6 at 12, and April 8 at half-past 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Young & Co., Sunderland.—Pet. f. Jan. 3.

ROBERT SPENDLOVE, Sheffield, Yorkshire, cattle dealer, March 7 and April 4 at 10, Sheffield: Off. Ass. Brewin; Sol. Marsh, jun., Rotherham.—Pet. d. Feb. 14.

FRANCIS BEE, Sheffield, Yorkshire, table-knife manufacturer, March 7 and April 4 at 10, Sheffield: Off. Ass. Brewin; Sol. Ryals, Sheffield.—Pet. d. Feb. 16; f. Feb. 17.

MEETINGS.

John Sworder, Ware, Hertfordshire, maltster, March 12 at 11, London, aud. ac.; March 19 at 1, div.—*John Kennard*, Little Queen-street, Holborn, ironmonger, March 10 at 12, London, aud. ac.—*Charles Brown*, Oxford-street, milliner, March 10 at 12, London, aud. ac.—*Robert Yallowley Barnes*, City-road, floor-cloth manufacturer, March 9 at 11, London, aud. ac.—*Morris Robert Syers*, *James Walker*, and *Daniel Backhouse Syers*, Ball-alley, Lombard-street, merchants, March 9 at 11, London, aud. ac.—*Richard Brawn*, Daw End, Rushall, Staffordshire, limeburner, March 19 at half-past 11, Birmingham, aud. ac. and div.—*Stephen Jackson*, Sutton Kildwick, Yorkshire, machine maker, March 31 at 11, Leeds, aud. ac.—*John Richardson*, Leeds, Yorkshire, wool merchant, March 31 at 11, Leeds, aud. ac.—*Robert Derham*, Leeds, and *Walter Allan Hinde* and *James Derham*, Dolphinholme, Lancashire, worsted spinners, March 31 at 11, Leeds, aud. ac. and div.—*Henry Inman*, Bradford, Yorkshire, shopkeeper, March 30 at 11, Leeds, aud. ac. and div.—*Geo. Robinson*, Huddersfield, and *Mary Farrand*, widow, Almondbury, Yorkshire, fancy-cloth manufacturers, March 31 at 11, Leeds, aud. ac.—*Thomas Parker*, *John Parker*, *John Rawlinson*, *William Abbott*, *Joshua Hanson*, *Joseph Bell*, *Thomas Chadwick*, *Abram Crusley*, *Robert Kershaw*, *John Musgrave*, *Joseph Wooller*, *Thomas Pullan*, *John Shaw*, and *George Eastburn*, Woodhouse Carr, Leeds, dyers, April 7 at 11, Leeds, aud. ac. and div. sep. est. of *Thomas Parker*.—*William Wilks*, Leeds, Yorkshire, builder, March 31 at 11, Leeds, aud. ac.—*Benjamin Wood*, Sheffield, Yorkshire, boiler maker, March 7 at 10, Sheffield, aud. ac.—*William Gascoine*, Hitchin, Hertfordshire, butcher, March 17 at 2, London, div.—*William Copeland Strange*, Henley-on-Thames, Oxfordshire, bricklayer, March 17 at 12, London, div.—*C. Poole*, Brighton, livery-stable keeper, March 17 at 11, London, div.—*G. H. Ward* and *B. Griffith*, Bear-alley, Farringdon-street, printers, March 19 at 2, London, div.—*C. S. Voules*, New Windsor, scrivener, March 19 at half-past 11, London, div.—*Joseph Harnden*, Webb-street, Southwark, and Three Oak-lane, Horselydown, bricklayer, March 17 at half-past 11, London, div.—*W. White*, New Crane Mill, Shadwell, miller, March 17 at 12, London, div.—*T. Thomas*, Manchester, milliner, March 10 at 12, Manchester, aud. ac.; March 17 at 12, div.—*Josiah C. Gaskell* and *Thomas Garstang*, Blackburn, machine makers, March 9 at 12, Manchester, aud. ac.; March 18 at 12 div. sep. est. of *Thomas Garstang*, and div. joint est.—*J. A. Hatfield*, Bradford, draper, March 20 at 12, Leeds, div.—*Henry Shaw*, Halifax, Yorkshire, worsted spinner, March 19 at 11, Leeds, div.—*Thomas Hardacre*, Settle, Yorkshire, mercer, March 19 at 11, Leeds, div.—*James H. Hargreaves*, Leeds, sharebroker, March 20 at 11, Leeds, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Edward Smith, Isleworth, Middlesex, baker, March 17 at 1, London.—*Lewis Benjamin*, Jewry-street, Aldgate, fish merchant, March 17 at 1, London.—*Wm. Rose*, Kingsland-road, Shoreditch, baker, March 19 at 11, London.—*Chas. B. Davis*, Upper Thames-street, wholesale grocer, March 18 at 1, London.—*J. Barlow*, Bolton-le-Moors, Lancashire, paper-hanger, March 20 at 12, Manchester.—*James Constantine*, Scout, near Newchurch, Rossendale, Lancashire, cotton spinner, March 17 at 12, Manchester. — *David Imrie*, Belfast and Manchester, manufacturer, March 17 at 12, Manchester.

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GAZETTES.—Friday, *Feb.* 27.

Bankrupts.

WILLIAM BROWNSWORD CHORLEY, late of Great Ormond-street, and now of Hart-street, Bloomsbury, Middlesex, and Cwmorthin, Festinog, Merionethshire, North Wales, slate merchant, March 10 at half-past 11, and April 9 at 2, London: Off. Ass. Johnson; Sol. Chidley, 10, Basinghall-street, City.—Pet. f. Feb. 26.

WILLIAM HADFIELD, late of Constantinople, afterwards of Liverpool, and now of Cockspur-street, Middlesex, (carrying on business with Matthew Slade Hooper, under the firm of William Hadfield & Co.), merchant, March 11 and April 8 at 1, London: Off. Ass. Stansfeld; Sols. Tatham & Co., 20, Austin-friars.—Pet. f. Feb. 24.

LUKE WARD, Wisbeach St. Peter, Cambridgeshire, plumber, March 13 at half-past 12, and April 17 at 1, London: Off. Ass. Whitmore; Sols. Abbott & Co., 8, New-inn.—Pet. f. Feb. 24.

DAVID MORRISS, Wisbeach, Cambridgeshire, grocer, March 16 at 2, and April 22 at 11, London: Off. Ass. Nicholson; Sols. Ollard, Upwell, Cambridgeshire; Hensman, 25, College-hill.—Pet. f. Feb. 25.

THOMAS HORNER, Hart-street, Bloomsbury, house decorator, March 13 at 1, and April 20 at 2, London: Off. Ass. Pennell; Sol. Boydell, 41, Queen-square, Bloomsbury.—Pet. f. Feb. 19.

WILLIAM BAILEY the younger, Buttesland-street, Hoxton, looking-glass maker, March 13 at half-past 1, and April 22 at 1, London: Off. Ass. Pennell; Sol. Taylor, 15, South-street, Finsbury-square.—Pet. f. Feb. 26.

ARTHUR BREARS CAISTOR, Baker-street, Portman-square, saddler, March 10 at half-past 2, and April 7 at 2, London: Off. Ass. Edwards; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. Feb. 24.

DAVID LLOYD, Cannon-street, London, and Lewisham, Kent, merchant, March 13 at 2, and April 21 at 12, London: Off. Ass. Lee; Sol. Pawle, 5, New-inn.—Pet. f. Feb. 23.

GEORGE WOOD, Loughborough, Leicestershire, wharfinger, March 10 and April 7 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Inglesant, Loughborough.—Pet. d. Feb. 24.

JOSEPH WEST, Beckington, Somersetshire, miller, March 16 and April 20 at 11, Bristol: Off. Ass. Miller; Sols. Brittain & Son, Bristol.—Pet. f. Feb. 24.

WILLIAM SKINNER the younger, Bristol, tailor, March 16 and April 20 at 11, Bristol: Off. Ass. Miller; Sol. King, Bristol.—Pet. f. Feb. 23.

CAROLINE LIDDELL, Great Driffield, Yorkshire, common brewer, March 18 and April 22 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. England & Saxelbye, Hull.—Pet. d. Feb. 24.

EDWARD WILLIAMS, Chester and Saltnetz, Flintshire, plumber, March 12 and April 9 at 11, Liverpool: Off. Ass. Bird; Sols. Dodge, Liverpool; Brown, Chester.—Pet. f. Feb. 19.

THOMAS OWEN, Liverpool, joiner, March 13 and April 9 at 12, Liverpool: Off. Ass. Bird; Sol. Teebay, Liverpool.—Pet. f. Feb. 24.

HENRY MARTIN MANWARING, Toxteth Park, near Liverpool, grocer, March 12 and April 3 at 11, Liverpool: Off. Ass. Turner; Sol. Smith, Liverpool.—Pet. f. Feb. 23.

JOHN WALKER, Blackburn, Lancashire, commission agent, March 12 and April 2 at 12, Manchester: Off. Ass. Hernaman; Sols. Shaw & Co., Burnley; Sale & Co., Manchester.—Pet. f. Feb. 24.

DAVID CHEETHAM, Rochdale, Lancashire, cotton spinner, March 12 and April 2 at half-past 1, Manchester: Off. Ass. Hernaman; Sol. Heaton, Rochdale.—Pet. f. Feb. 19.

Meetings.

Joshua Unwin, Bradford, Yorkshire, stuff manufacturer, March 19 at 11, Leeds, div.—*R. Hammond*, Ripon, builder, March 20 at 11, Leeds, div.—*Thomas Brindley*, Uttoxeter, Staffordshire, grocer, March 20 at half-past 11, Birmingham, div.—*H. B. Harris*, Shrewsbury, draper, March 20 at half-past 11, Birmingham, div.—*William B. Jones*, Birmingham, grocer, March 20 at half-past 11, Birmingham, div.—*Horatio Bunting*, Colchester, Essex, seedsman, March 11 at half-past 1, London, last ex.—*John Henry Stevens*, Great Wild-street, Lincoln's-inn-fields, engraver, March 10 at half-past 12, London, last ex.—*S. Muddiman*, Northampton, shoe manufacturer, March 10 at 12, London, aud. ac.; at half-past 12, last ex.—*Geo. Augustus Hamilton Chichester*, York-buildings, Adelphi, commission agent, March 10 at 1, London, last ex.—*Joseph Van Raalt* the younger, Gloucester-terrace, St. John's-road, Hoxton, importer of French goods, March 11 at 12, London, last ex.—*Robert Prudhoe*, Durham, grocer, March 10 at 1, Newcastle-upon-Tyne, last ex.; at half-past 1, aud. ac.—*J. Loader*, Walworth-place, Walworth, upholsterer, March 11 at 12, London, aud. ac.—*Robt. E. Key*, Thorney, Cambridgeshire, grocer, March 12 at half-past 11, London, aud. ac.—*William White*, New Crane Mill, Shadwell, miller, March 13 at 11, London, aud. ac.—*W. Baker*, Tichborne-street, Haymarket, licensed victualler, March 13 at 11, London, aud. ac.—*J. C. H. Freund*, West-st., Finsbury, boarding-house keeper, March 13 at 1, London, aud. ac.—*A. H. Harrold*, Frome Selwood, Somersetshire, chemist, March 26 at 11, Bristol, aud. ac.—*Edwin Peeke*, Torquay, Devonshire, builder, March 12 at 1, Exeter, aud. ac.; March 19 at 1, div.—*John Dickenson*, Walsall, Staffordshire, merchant, March 23 at half-past 10, Birmingham, aud. ac.—*John Bywater*, Nottingham, tailor, April 7 at half-past 10, Nottingham, aud. ac.; April 21 at half-past 10, div.—*John Richard Dawson*, West Cowes, Isle of Wight, hotel keeper, March 23 at 1, London, div.—*J. Steverson*, Wandsworth-road, Surrey, brewer, March 23 at 2, London, div.—*John Corbett*, Birmingham, licensed victualler, March 23 at half-past 10, Birmingham, aud. ac. and div.—*Charles James Wm. Morris*, Bilston, Staffordshire, draper, March 23 at half-past 10, Birmingham, fin. div.—*James Haywood*, Derby, ironfounder, April 21 at half-past 10, Nottingham, div.—*Robert Webb*, Newport, Monmouthshire, ironmonger, April 2 at 11, Bristol, fin. div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Levi Pearson, Rochdale, Lancashire, wholesale grocer, March 23 at 12, Manchester.—*Heaton Wright*, Burnley, Lancashire, timber dealer, March 17 at 12, Manchester.—*Joseph Baxter*, Birmingham, victualler, March 19 at half-past 10, Birmingham.—*Joseph Gelsthorp*, Nottingham, builder, March 24 at half-past 10, Nottingham.—*John Sloman*, Kingston-upon-Hull, commission agent, April 1 at 12, Kingston-upon-Hull.—*Joseph Henry Clarke*, Leicester, hatter, March 24 at half-past 10, Nottingham.—*George Hawkins*, Eden-place, Old Kent-road, Surrey, oilman, March 24 at 11, London.—*George Davey*, Murray-street, New North-road, plumber, March 24 at half-past 11, London.—*W. H. Russell*, Strand, blacking manufacturer, March 20 at half-past 11, London.—*John Smith*, Sheerness, Kent, dealer in drugs, March 20 at half-past 1, London.—*George N. Solomon*, Euston-place, New-road, merchant, March 23 at half-past 11, London.—*James Steverson*, Wandsworth-road, Surrey, brewer, March 23 at 2, London.—*John R. Dawson*, West Cowes, Isle of Wight, hotel keeper, March 23 at half-past 1, London.—*Alfred H. Harrold*, Frome Selwood, Somersetshire, chemist, April 6 at 11, Bristol.—*Thomas Pinches*, Walsall, Staffordshire, builder, March 30 at half-past 10, Birmingham.—*K. Wilson*, Sheffield, surgeon, March 21 at 10, Sheffield.

To be granted, unless an appeal be duly entered.

John Bowden, Victoria-grove, Brompton, and Pullen's-row, Islington, brewer.—*James Jerram Pratt*, Billiter-square, City, merchant.—*Frederick T. Hunt*, Watling-street, City, warehouseman.—*W. Corbett*, East Dean and Newnham, Gloucestershire, coal merchant.—*Robert Radnor*, Presteign, Radnorshire, maltster.—*Eliza Horner*, Manchester, cabinet maker.—*Abraham Scott*, Manchester, ironmonger.—*James Reid*, Liverpool, tailor.—*Richard Berry*, Ormskirk, Lancashire, innkeeper.

Petition Annulled.

John M'Millan, Liverpool, shipowner.

Scotch Sequestrations.

John Neilson, Holytown, Bothwell, contractor.—*William Thomson*, jun., *& Co.*, Glasgow, contractors.—*John M'Nicoll*, Perth, shoemaker.

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THE JURIST.

LONDON, MARCH 7, 1857.

The correspondent who wrote the article upon "Guardianship in Chancery," in our last number, has favoured us with these further observations on the same subject:—

The Lords Justices have taken time to consider their decision in *Stourton* v. *Stourton*, and the importance of the question raised now appears to be fully recognised. That question is, whether in Chancery, as at common law, the mother, surviving the father, is not guardian by nature and for nurture—i. e. for *education* and maintenance—subject to be displaced on special grounds. The bill in *Stourton* v. *Stourton* lays no special grounds; it states that the infant has *personal* estate, and it prays that a proper person or persons may be appointed guardian, and that directions may be given as to the infant's education and maintenance. No special grounds being laid, the question is whether the mother can be displaced. The real reason of the application was disclosed on the argument—that the father was a Roman Catholic, and that the mother has become a Protestant; and it is said that this gives the Court jurisdiction to take the child from her, or to deprive her of all interference in his education—i. e. in either case to ignore her common-law right as guardian for nurture. Can the Court of Chancery do that? If so, on what principle?

The question is as to the right of the mother as guardian for nurture (i. e. for education) on the death of the father, in the *absence* of testamentary guardian; and it is one of such interest and importance that it could scarcely be disposed of in a single article, and we therefore return to the subject, especially as it is still pending in Chancery. At common law the guardian in chivalry could claim custody of the heir's person as against the mother, on the obvious ground that she could not be competent to conduct the military education of the child, on which his tenure of his lands, held by feudal tenure, at full age, would depend. This gives the clue to the whole jurisdiction of equity on the subject, which we contend is restricted to moral, social, and legal grounds, and cannot be exercised on grounds spiritual or theological. The guardian in chivalry had no right to the person unless the lands were held in chivalry; nor had the Crown, unless the king was immediate lord. Guardianship in socage applied when lands not held in chivalry descended; and this was distinct from the mother's guardianship by nurture. Yet we are not aware of any authority to shew that the guardian in socage could claim the custody of the child from the mother under the age of fourteen; while the case in 9 Edw. 4 is an authority that he could not do so; and per Littleton, J., "Guardianship by nurture can be where no lands are descendible." Moreover, there is a case in the Year Book, 30 Edw. 3, in which the father and *mother* were held entitled to sue out a writ of ravishment of ward, though he had no lands descendible ex parte maternâ; which of course shews that she, surviving the father, could sue *alone*. In perfect conformity with the principle of the old law as to disparagement was the case of *Eyre* v. *Shaftesbury*, (2 P. Wms. 103), where the Court went entirely on the analogies derivable from the ancient writs and cases at common law. Be it observed, that this question of guardianship is a common-law question, (apart from testamentary trust), and was decided at common law on writs of right of guardianship. Before the stat. 12 Car. 2, giving the father the right of appointing a testamentary guardian, the right of guardianship for nurture would clearly survive to the mother in all cases of tenure by socage, or cases in which no lands were descendible. That statute applies now to all cases, including such as would before the act have been cases of guardianship in chivalry, like the case of the heir of Lord Shaftesbury; and the equity or principle of those cases, no doubt, thus far remains, and has ever since been enforced by the Crown in Chancery as parens patriæ, as no doubt it would have been before the statute, had there been any necessity for it, in all cases of tenure in chivalry, viz. the principle of protecting the heir from disparagement, or from any education derogatory to his father's station or rank in society. There was no necessity for the exercise of jurisdiction on the part of the Crown under the feudal system, because it was the manifest *interest* of the lord to see that the heirs of his military tenants were duly educated. Lord Coke describes the duty of guardian in chivalry in terms which we say embrace all the grounds of the jurisdiction in Chancery at this day, apart from testamentary trust, that duty being "to educate the ward virtuously," and to prevent him from "disparagement."

We question very much whether it be competent to the father, even by express testamentary trust, to bind the conscience of the mother to educate the child in a particular religion, which, on legal, moral, and social grounds, is only on a parity with the religion of the father. The case of *Lady Teynham*, (9 Mod. 42), in which there was such an express testamentary trust to bring up the child as a Protestant, was under the penal laws; and how far they necessarily affected the legal aspect of the question is apparent from this, that they involved social and legal disabilities, extending even to a forfeiture of estate. Even under those circumstances the House of Lords declared, that though bound to take the child from the mother to give it to the testamentary guardian, they would not take it from her to give it to a stranger, even at the appointment of the testamentary guardian. And Lord Hardwicke laid it down, (*Roach* v. *Garvan*, 1 Ves. sen. 158), that "the mother is guardian by nature and for nurture where there is no testamentary guardian; and the Court will not remove her except where there is misbehaviour." (*Villareal* v. *Mellish*, 2 Swanst. 533; 2 Atk. 15; *Mendez* v. *Mendez*, 3 Atk. 629; *Smith* v. *Marshall*, 2 Atk. 70). It is questionable whether, even by express testamentary trust, the father, *leaving her guardian*, can bind her conscience to bring up the child in a particular religion. How can a court of conscience enforce a trust contrary to conscience? And as the mother and father are, according to the common law, joint tenants of the wardship, even though there be no lands ex parte maternâ, how can one joint tenant fetter the other by a trust contrary to the nature of the joint interest? The statute gives the power of removing her from the guardianship; but the question arises when that is not done.

We have shewn that the Crown is not *guardian*, where there is already a legal guardian. We have shewn that the greatest equity authorities recognised the mother as guardian, except as against a testamentary guardian *by statute*. In *Lady Teynham's case* (9 Mod. 42*) the House of Lords held that the Court of Chancery could transfer the child from the mother to the testamentary guardian, but not to his *appointee*; à multo fortiori not to a *stranger*; yet in that case the object was to carry out the father's express will that the child was to be brought up a Protestant. In *Villareal* v. *Mellish*, (2 Swanst. 533), Lord Hardwicke refused to take a child from the mother merely because she had changed her religion from that of the father. We cited several cases in which he declared the mother guardian by nature, and that her right was not to be interfered with save under a statutable testament. In any case in which, even under such compulsion, it has been interfered with, as by Lord Eldon in *Lady Ilchester's case*, (7 Ves. 380), it has been done with the utmost tenderness and reluctance. Even in the case of a natural child, if any one is mentioned in the testament she would be appointed guardian without reference. (*Chatteris* v. *Young*, 1 J. & W. 106). Where the mother is not appointed guardian by the testament, we repeat, her right is disturbed with infinite reluctance. (*Talbot* v. *Shrewsbury*, 4 My. & C. 673). And there is no case in which any one else has been arbitrarily appointed guardian while she survives; nor can the guardian be removed except on special ground. (*Ingham* v. *Beckerdike*, 6 Mad. 275). In the case of Mr. Wellesley, in the House of Lords, it was laid down that testamentary guardianship is a continuation of the paternal authority, (*Wellesley* v. *Beaufort*, 2 Russ. 1); and of course the father's right prevails against the mother *where it is asserted by him*. But the question is as to where it is not asserted by him; and, we repeat, there is no case in which, while she survives, any other person has been arbitrarily appointed guardian in her place—that is to say, guardian of *the person*, or for education—so as to *supersede* her authority as guardian for nurture. In *Beattie* v. *Johnston*, (7 Cl. & Fin.), before the House of Lords, the mother had died. So, in *Re Hunt*, (2 Con. & L. 371), where Lord St. Leonards took the child from friends of hers to whom she had confided it, but did so on several grounds, not one of which was referable to the mere simple fact that the deceased mother's friends were of a different religion from that of the father. It is true that Lord St. Leonards dwelt much on the fact that they were of a new sect, the "Plymouth Brethren;" but he spoke of them in a way which shewed that his objection to them did not arise solely from the simple fact that their religion was not the father's: he rather dwelt on the fact that they were a new-fangled body, of whom he could not know "whether they had any regular clergy or established discipline." And we cannot admit that this class of cases can at all justify the withdrawal of the child of a Romanist from a mother who is a member of the Established Church, or the converse case of the withdrawal of the child of a member of the Church of England from a Romanist mother, or a

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* By error we stated last week that the child was left with the mother. The child was given to the *testamentary guardian*, according to one report. The Court could not give it to any one else. And that was the *point*.

Presbyterian child from an Episcopalian; and so of the Episcopalians and the "Protestant dissenters"—bodies recognised by law and referred to in statutes. A century ago Lord Henley repudiated with indignation the idea of applying the latter term, "Protestant dissenters," to all the sects of fanatics which arose, and have so multiplied since his time. The class of cases in which an infant has been withdrawn from parents belonging to *such* sects, surely, should be referred rather to the principle that the Crown in Chancery has jurisdiction to protect infants from what at common law was called "disparagement," or, in the more modern language of Courts of equity, "danger of abuse to the person or education"—i. e. where there is a likelihood that the infant will be brought up in a way derogatory to its proper position in society. It is true that in the case cited Lord St. Leonards said that the mother, while she lived, would have been bound by an implied trust to bring up the child in the religion of the father; but as she was dead, that was clearly obiter, because she cannot appoint a testamentary guardian. The interposition in that case was on the general power of the Court as pater patriæ—a jurisdiction always exercised with reference to the benefit of the infant. Now, when the mother's religion, or the religious community she belongs to, cannot be objected to per se, or by reason of any derogatory associations to which it may expose the infant, *that* cannot be the ground of jurisdiction; and accordingly in that class of cases Lord St. Leonards clearly puts the interposition of the Court on its only possible basis, that of trust. But the statute which gives power to appoint a testamentary guardian gives *indirectly* the power of securing the instruction of the child in the religion of the father. Indirectly; for though in *Talbot* v. *Shrewsbury* (4 My. & C. 2) the Lord Chancellor said that the father had no absolute right to direct what the religion of the child should be after his death; in the same case it was said, that the selection of a guardian of a particular religion would indicate an intention that the child should be brought up in that religion; and next, the testament may create an express trust for that purpose, which in such case equity can enforce, as in that case it did. And so in *Re Brown*, (2 Ir. Eq. Rep., N. S., 151), where the *mother* was dead, and the contest was between the testamentary guardian and her relatives; and the Court enabled the former to carry out the directions of the testament as to the child's religious instruction. But in cases of infants the jurisdiction of the Court as to trust is affected by that which is its cardinal principle in cases of guardianship—a regard for the benefit of the infant; and even in cases of express trust, by testament, for the infant's instruction in a particular religion, the Court has declined to enforce it where laches has made it likely that the result of enforcing the education in a particular religion would be morally injurious to the infant. (*Witty* v. *Marshall*, 1 Y. & C. C. C. 68). Upon the same principle it should seem to follow that it might be argued forcibly, that where there is no express trust for the infant's education in a particular religion, and there is a mother surviving, her guardianship should not (save on the ground of abuse or "disparagement" already referred to) be interfered with, merely for the sake of securing education in the religion of the father; especially considering that in the recent case of *Warde* v. *Warde*, (2 Ph. 786), the Chancellor, on the one hand, laid it down that children were entitled by law to the care of their *mother* as well as father; and, on the other hand, that it was to be desired *not to introduce factions into families*. There seems something shocking to common feeling and common sense in taking a child from its surviving parent, the mother, merely because she is not of the same form of the Christian religion as the father, *he having forborne to create any express trust for the child's instruction in it*. At common law he could not do so; and his authority expires with his life. He can only continue it by testament under the statute, and does not do so. Either he leaves the mother guardian by his will, or he simply says nothing about guardianship in it. In the latter case—and every man must be presumed to know the law—it must be taken that he means her to be guardian. In either case, to insist on the child being brought up in his religion is to insist on what he forbore to demand; very likely from that fear of introducing "faction into his family" which Lord Cottenham expressed; non constat, any how, that he desired the object so much that he would sacrifice to it the mutual affections of the mother and the child. And it seems impossible to escape from the conclusion, that as he has not declared a trust, it is for the benefit of the infant that he has not done so, unless the Court of Chancery is to make itself arbiter of different religions, and to undertake to determine which is for the benefit of the infant. Spiritually or theologically, it certainly does not affect to do so; and morally, socially, or domestically, we should say, that it is "for the benefit of the child" that during infancy it should be brought up in the mother's religion, provided it is one which holds the great doctrines of Christianity, and has a regular recognised system of instruction. It has been laid down, in terms, that a mother ought to have a share in directing the education of her child, (*Fermor* v. *Pomfret*, 1 Jur., part 1, p. 150)—a proposition certainly accordant with the dictates of nature and the precepts of Christianity. We desire to distinguish between displacing a mother as guardian of the person and education, and merely associating with her some other guardians of the *estate*—a distinction dictated by obvious convenience, and in accordance with the civil law. But the mischief and the vice of the doctrine, that the father's religion must necessarily regulate that of the child during infancy, is this—that it necessitates the virtual removal of the mother from the guardianship, unless she is to be forced to the insincerity of teaching a religion she does not believe in. Surely it is a fearful thing to expose maternal affection to such a temptation; and the doctrine in question infallibly involves hypocrisy in the mother, or cruelty towards the mother. It is impossible to carry out the principle without excluding her from the society of her children, or precluding her from speaking to them on the subject of religion. Unnatural prohibition! In the case of *In re North* (11 Jur., part 1, p. 7) that was the course taken. What anguish it must have involved to the mother; perhaps greater than if she had been wholly separated from them; but, in that case, what agony to them! Now, all this is to be done by the Court as parens patriæ! Domestic misery unutterable, inflicted in the name of parental tenderness and parental care! What a mockery it does seem! Again: the separation of the child from the mother, for the sake of his education in a particular religion, is the likeliest course to prejudice him *against* that religion. In the case of *In re North* the mother had changed her religion since the father's death; but that was in accordance with the sacred rights of conscience. And so in *Mrs. Stourton's case;* and the converse case can easily be conceived of the father changing his religion after marriage. Better follow the law of God, that a child is to honour his surviving parent, and leave the result to Providence. In the case of *In re North*, be it observed, the mother had voluntarily parted with her children until they were ten or eleven years of age, and then wanted to regain them merely *on account* of her own change of religion. That is not quite the same case as that of a mother who, like Mrs. Stourton, had never parted with her child, and whom it is sought to *deprive* of her child, on the ground of her change in religion. And there is a broad distinction between declining to appoint a mother guardian in Chancery, (i. e. an officer of the Court), when she applies for that appointment, and displacing her from her common-law right of guardianship on the application of other parties. In the case of *In re North*, however, it is proper to say that it is doubtful whether the decision must necessarily be referred to the doctrine we protest against, and whether it might not be supported, on the principle of a large class of cases, as to voluntary acquiescence on the part of the parent, and her inability to provide for the infants according to the education she had allowed to be made for them; and if that be so, then the opinion of Sir J. L. Knight Bruce, V. C., in favour of the doctrine in question was obiter. It is fair to add, that it was not efficiently *argued* on that point, none of the authorities we rely on having been cited; while in the case of *In re Race* the question of jurisdiction was not argued at all. Strange to say, therefore, the question has never been distinctly discussed; and we trust that it may be satisfactorily settled in *Stourton* v. *Stourton*. There is this obvious difficulty in the doctrine against which we have argued, that it tends to make the Court of Chancery a court of theology. Where is the line to be drawn, as regards difference of religion? Is the distinction between Trinitarian and Unitarian of less importance than that between Romanist and Anglican? or Episcopalian and Presbyterian, or Independent and Baptist, or Baptist and Pædo-Baptist, or General Baptist and Particular Baptist, or Methodist and Primitive Methodist, or Wesleyan and Whitfield or Lady Huntingdon Connexion Methodists? Where, we say, is the line to be drawn? The Romanists, the Anglicans, the Presbyterians, the Protestant dissenters, it may be said, are in many ways recognised by law. That may make a social and legal distinction as regards other and less regular or unrecognised sects; but does it not also destroy all *legal* distinction among those different religious bodies which are thus recognised in our courts? Are they not, legally, socially, and morally, on a par? And if so, how can the Court of Chancery enter into theological distinctions between them, as an Ecclesiastical Court might do, on a question of soundness of doctrine or right to ordination, and create a positive trust, under cover of which to destroy a sacred right, established by common law, recognised in Chancery, and conformable to reason, to nature, and to Christianity?

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Our readers will probably remember that in the article which we devoted to the queries of our correspondent "H." on the subject of the recent Joint-stock Companies Act we were obliged to leave some unanswered, and to those we now invite attention. The points in doubt relate to the position of companie, already existing at the time of the passing of the acts which have been brought under its operation by registration; and the most convenient course will be to state in the first instance the general view which we take of the sections of the act, and then to draw attention in detail to the particular points in doubt.

The fifth part of the act is headed "Repeal of former acts and temporary provisions," and the sections in question are again headed "Temporary provisions;" so that we are at once advertised of the fact that the general legislation is done with, and that we are about to deal with particular provisions. We should, therefore, from the previous part of the statute, from its consolidating character, expect to find that it would deal with already existing companies, so as to prevent or destroy, as far as possible, any distinction between them and the new companies, and that, saving existing rights, they would at once be brought within the operation of the new system. Accordingly we find the 110th section enacting, that "every company under the old Joint-stock Companies Act" *shall*, on or before the 3rd November, 1856, and any other lawful company *may*, register itself as a company under the new act. Then the 111th and 112th sections provide certain requisitions for the registration of such companies, upon compliance with which the registrar is to give a certificate of incorporation, (sect. 113), and thereupon the company is incorporated; and then the section continues, "all provisions contained in any deed of settlement, act of Parliament, royal charter, or letters-patent, or other instrument constituting or regulating the company, shall be deemed to be regulations of the company within the meaning of this act; and all the provisions of this act shall apply to such company in the same manner in all respects as if it had been originally incorporated under this act."

Subsequently there is a proviso, that except as to a change of name, "no company constituted by act of Parliament, and no company constituted by royal charter or letters-patent, shall have power, by special resolution or otherwise, to alter any of the provisions contained in such charter or letters-patent without the consent of the Board of Trade." Now, the general intention of this would seem to be pretty clear. First, companies which now exist under a self-imposed constitution shall absolutely, and without qualification, except as to vested rights, become subject to the new system as soon as they are registered. Secondly, companies under a constitution given to them by the Crown or Legislature shall differ from the new companies in one respect—they shall still be subject to the control of the Crown as to change of constitution.

This being the presumed general intention, let us see how far it has been carried into effect, and consider whether any of the first class of companies is enabled to alter any of its regulations by special resolution, under the provisions of the 33rd section. Now, if it be not, it is in a worse position than the second class of companies, which can do so by the leave of the Board of Trade, to which no such power is given, either expressly or by implication, with reference to the first class. Therefore it would seem that this consideration is of itself sufficient to dispose of the question in favour of such power. But, in addition to this, the deeds of companies under the old act were stuffed with rules for their regulation utterly inconsistent with the provisions of this act. Moreover, the 7th section of the old act provided, "that any defect or omission, as regards the matters thereby required in any deed of settlement, might from time to time be supplied by a supplementary deed or deeds." That provision is gone, and those defects and omissions would have to remain if the power of alteration be taken away from such companies—a conclusion so absurd that it could not be supported except by express words. We therefore say, without hesitation, that the 33rd section does apply to the companies in question.

The next question suggested by our correspondent is, whether, in the case of such companies registered anew under this act, the operation of Table (B.) is effectually excluded, or whether those regulations govern the company, subject to the deed of settlement. The 9th section gives power to the promoters of any company, if they consider the regulations in Table (B.) as inapplicable in their case, to exclude them, in whole or in part, by annexing to the memorandum of association articles signed by the subscribers of the memorandum, prescribing regulations for the company; and it declares, that if no such regulations are prescribed, or so far as the same do not extend to modify the regulations in Table (B.), the latter regulations shall, so far as the same are applicable, be deemed to be regulations of the company, and as binding as if inserted in the articles. Then it is said, that as sect. 113 constitutes the provisions of the deed of settlement, or other instrument regulating any existing company, regulations of the company when re-registered, and does not say *the* regulations, it will follow that the operation of Table (B). is not excluded, and that the regulations of such company will be a sort of patchwork combination between its old deed and Table (B.), viz. so far as the former does not modify the latter. Now, it may be observed at once, that nothing could be more ridiculous or anomalous than this. The object of the statute is clearly to give companies power to manage their own affairs and to make their own rules. Newly-formed companies, not yet having any system or code of management, may entirely repudiate Table (B.), and, right or wrong, may say—"This does not suit us; we will not risk the uncertainty of having a set of rules modified by those in Table (B.), but will exclude it altogether, and have a set which shall be a consistent whole." What, then, could be more absurd than to say to already existing companies, which have to a certain extent chosen their system, tried it, proved it, and made it consistent, "We will force upon you these regulations, as modified by your deed, until you find out the inconveniences of the combination, and remove them by special resolution?" And if the effect of this combination should in any case be injurious, it is an injury which, upon this hypothesis, the company could not entirely prevent, because any alteration must be by special resolution, which could not take place until months after the registration of the company, during which time great injury might have accrued. Surely the meaning of the Legislature is this—"You who would form new companies may prescribe your own rules by your articles; and if you do not, here is a code which, to prevent difficulty, shall apply. You old companies, who have already made your rules, shall continue with those rules until you think fit to alter them in the usual way." We confess to a suspicion that the word "the" was omitted in the 113th section by some mistake, or else that it was omitted to meet the very difficulty involved in the point first discussed, and lest it should be said, that as the act had made the deed of settlement "*the* regulations" of the company, there was no power to alter them. But without this, it seems to us that those who consider that Table (B.) is not excluded in these cases are in this difficulty—either sect. 9 applies to such companies, or it does not. If it does, there are regulations prescribed for them, viz. their deeds of settlement; if it does not, cadit quæstio; there is nothing to make Table (B.) apply to them, and therefore, quâ cunque viâ, it is excluded. The last point raised does not seem to present any doubt; it is, whether a shareholder, becoming such subsequently to the re-registration of the company, ought to execute the deed of settlement, and whether he would be bound by it without such execution. The answer to this is, that when any old company comes under the operation of this act, there ceases to be any deed of settlement as such, but the deed takes the place of articles of association; and for this purpose the position of shareholders seems to be precisely the same as if the company were a new one, and had had all the provisions of that deed annexed, as articles, to the memorandum of association. The necessity for the execution of the deed of settlement was caused by the 7 & 8 Vict. c. 110, s. 3, which gave, as a definition of a shareholder, "one who is entitled to a share, and who has executed the deed of settlement, or a deed referring thereto;" and it is therefore clear that there will be in this case no such necessity. Possibly there may be a difference in the position of the old and new shareholders with respect to the nature of the debt created by a call, which in the former case may still continue, as regards the company, a specialty debt, but in the latter not so. This distinction, however, would be of very minor importance. While upon this set of clauses, perhaps it may be convenient to call attention to the last section, (sect. 116), saving the rights of creditors. That section enacts, "that the re-registration of a company shall not, nor shall any subsequent act of the company, prejudice any right which previously to such registration has, or which would if no such registration had taken place have, accrued to any creditor or other person against the company in its corporate capacity, or against any person then being or having been a member of such company; but every such creditor or other person shall be entitled to all such remedies against the company in its corporate capacity, and against every person then being or having been a member of such company, as he would have been entitled to in case no such registration had taken place." What does this mean? What are the rights which would have accrued to any person "if no such registration had taken place," which would be hindered by such registration? The section seems to have been framed upon the supposition that a corporation, by change of name or constitution, loses its rights and is discharged from its engagements. That such is the case where a corporation is dissolved is clear; that it is not the case where it merely receives a new charter or constitution is equally clear. (*The Mayor of Scarborough* v. *Butler*, 3 Lev. 238; *Luttrel's case*, 4 Rep. 87; *Mellor* v. *Spateman*, 1 Saund. 343; *Colchester* v. *Seaber*, 1 W. Bl. 591). The company here is the same corporate body, the same *person*, and having the same rights and liabilities with reference to all by-gone transactions, and therefore to all rights in process of accrual. There are, then, no rights which would be affected by "registration" in its ordinary sense. Are we to give the word a more extended sense, and read the passage "as if this act had not passed?" Then the effect will be to continue in force all the old provisions for scire facias and execution against shareholders which existed under the old act, so far as this section applies, for the latter part of the section saves all remedies. The "rights which would have accrued" are of course rights accruing subsequently to such registration. The words are not clearly confined to rights springing out of matters which arose before the registration; but that must be the case, because the section is only a temporary provision, of limited duration; and otherwise the section would apply to all rights, of whatever kind, which cannot be intended. It is difficult to know to what period to refer the word "then," but it seems to have reference to the time of the accrual of the right; and the effect of the section will then be, omitting all the early part as meaningless, to preserve to all persons who had dealings with the company prior to the registration the remedies of the old act in respect of rights arising out of those prior dealings. It will be observed, that the section does not save any rights or remedies in respect of the non-registration of any existing company; so that in the case of such companies dissolved by non-compliance with the provisions of the act a very serious question may arise as to those rights.

Correspondence.

IN RE ALICIA RACE.—RACE v. *RACE.*

TO THE EDITOR OF "THE JURIST."

SIR,—With reference to the strictures in your last number on the recent case of *Alicia Race*, heard in private, and not yet reported, I may possibly do some service, having been one of the counsel in the cause, by supplying you with the following information:—

1. Your correspondent is mistaken in supposing that the counsel for the mother did not argue the question of the jurisdiction; on the contrary, that was the principal point which they did argue, and the only one on which, in my belief, there was any reasonable doubt.

2. The arguments in the case occupied in all two complete days, or more, and every point was fully gone into. Most of the authorities to which your correspondent refers, and many others, were cited and commented on; and at the end the Vice-Chancellor (Sir R. T. Kindersley) delivered an elaborate, and if I may say so without presumption, a well and carefully reasoned, though not a written, judgment, directing the education of the child in the religion of her father.

3. The Vice-Chancellor did not in his judgment refer to or make any remark on the case of *In re North*, (11 Jur., part 1, p. 7), referred to in your correspondent's letter; or the still stronger case, to the like effect, of *In re Hunt*, (2 Con. & L. 371)—Lord St. Leonards' decision, not there referred to—both of which cases were cited and urged in the argument; or the case of *Witty* v. *Marshall*, (1 Y. & C. C. C. 68), also relied on by the counsel for the infant. These cases, no doubt, had weight; but his judgment was expressly based on another and unreported case, which had been also cited and commented on by the counsel for the infant, viz. the case of *Bligh* v. *Bligh*, *(Lord Darnley's case)*, decided by Lord Cottenham in 1836, and the order in which is to be found in Set. Dec. 353, 2nd ed. The Vice-Chancellor had procured the papers in this cause from the Report Office, and entered into a minute examination of the circumstances of the case, which more than supported the judgment he was pronouncing.

4. The grounds on which the judgment proceeded are, in my apprehension, three:—

(1). That the religion of the father, *in the absence of any other circumstances*, governs that of his children. (*Bligh* v. *Bligh*, *In re North*, *In re Hunt*, *Talbot* v. *Shrewsbury*, 4 My. & C. 672; the dictum in *Witty* v. *Marshall*). In *Villareal* v. *Mellish* (2 Swanst. 533) there were other circumstances which excluded the application of the rule, and principally that the Jewish religion was then under penal disabilities.

(2). That the mother in the principal case, there being no testamentary guardian, had expressly admitted that the father's will was, that the children should be brought up Protestants, and had acted thereon consistently up to the time of the application, the application itself not being prompted by any religious objections, but having proceeded from circumstances entirely collateral and irrelevant.

(3). That the child had been brought up *from her birth* until the present time in the religion of the Church of England; and that the Court will not, unless compelled, change a fixed course of education, and risk the unsettling of the child's principles. (*Witty* v. *Marshall*).

I may add, that it was contended, inter alia, by the counsel for the mother, that she was testamentary guardian; but on this point the Vice-Chancellor expressed a very decided opinion that she was not so, and considered that the religious education of the child would not be governed by that point, whichever way it had been. I am, Sir, yours faithfully,

H.

TO THE EDITOR OF "THE JURIST."

SIR,—Will you permit me to call your attention to two recent decisions on voluntary trusts, which I think were not alluded to in your last number, viz. *Airey* v. *Hall* (2 Jur., N. S., part 1, p. 658) and *Parnell* v. *Hingston and Others*, (Id. 854), in both of which Sir J. Stuart, V. C., seems to have held, that if the owner of a chose in action makes a voluntary assignment to a trustee, upon trust for a third party, although the legal interest fails in being vested in the trustee, yet the trusts are thereby validly fastened on the property in the hands of the owner himself. This view seems to be unsupported either by principle or authority, and is directly at variance with the case of *Ward* v. *Audland*, (8 Beav. 202), in which Lord Langdale held, that such an assignment, as it did not vest the legal interest in the trustee, failed to establish a valid trust, on the ground (which is intelligible and clear) that his intention was to assign the property to the trustee upon trusts to be executed by him, "*and not to create himself a trustee.*"

While I am upon the subject, I venture to suggest the following simple propositions as the general result of the authorities on the validity of voluntary assignments of choses in action, viz.—

1. The term "equitable assignment" is, strictly speaking, a misnomer, what is really meant by the term being "an assignment of the equitable interest," or the creation of the relation of trustee and cestui que trust.

2. If A. has only an equitable interest, and assigns it to B., the transaction is complete and valid.

3. If A. has both the legal and equitable interest, but attempts to transfer no more than the latter, as by declaring himself a trustee for B., the transaction is complete and valid.

4. If A. attempt to assign both his legal and equitable interest to B., the assignment, failing as to the legal interest, fails also as to the equitable interest, (i. e. if without consideration), the transaction being incomplete.

5. If A. thus attempt to assign his legal interest to B. upon trust for C., the legal interest not being thereby vested in B., the trust in favour of C. fails with it, the transaction being in this instance also incomplete.

I remain, yours respectfully,
Lincoln's Inn, Feb. 10, 1857. S.

LIST OF SHERIFFS AND UNDER-SHERIFFS, WITH THEIR DEPUTIES AND AGENTS, FOR 1857.

[*Note.*—Warrants are not granted in town for those places marked (*). The term of office of the sheriffs, &c. for cities and towns expires on the 9th November. Office hours, in Term, from 11 till 4; and in Vacation, from 11 till 3.]

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Undersh., William Stephens, Esq., Presteign, Radnorshire.
Dep., David Hughes, 13, Gresham-street.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—John Elliott Fox the younger, of Finsbury-circus, in the city of London, in and for the city of London, also in and for the city and liberties of Westminster, and also in and for the county of Middlesex; John Layton, of Islington, Middlesex, in and for the county of Middlesex; John Stone, of Bath, in and for the city of Bath, also in and for the county of Somerset.

TUESDAY, *March* 3.

BANKRUPTS.

GUSTAVUS SICHEL, New Broad-street, City, merchant, (trading under the firm of Gustavus Sichel & Co.), March 16 at half-past 12, and April 24 at 11, London: Off. Ass. Pennell; Sols. Lawrance & Co., 14, Old Jewry-chambers. —Pet. f. Feb. 17.

WILLIAM SQUIRES, Oxford-street, gunmaker, March 18 at 12, and April 22 at half-past 1, London: Off. Ass. Nicholson; Sol. M'Duff, 37, Castle-street, Holborn.—Pet. f. Feb. 27.

HENRY NEWMAN KETTLE, Godalming, Surrey, grocer, March 17 at 12, and April 16 at 2, London: Off. Ass. Bell; Sol. Murrough, 5, New-inn, Strand.—Pet. f. March 2.

FREDERICK HOFMAN, late of Basinghall-street, City, but now of Herbert-street, New North-road, Middlesex, merchant, March 12 and April 9 at 11, London: Off. Ass. Bell; Sol. Chidley, 10, Basinghall-street.—Pet. f. Feb. 26.

WILLIAM STAPLETON, 15, Wharf, Paddington, contractor, March 17 and April 21 at 2, London: Off. Ass. Lee; Sols. Routh & Rowden, 14, Southampton-street, Bloomsbury.—Pet. f. Feb. 27.

JAMES KEYWOOD the younger, Littlehampton, Sussex, plumber, March 13 at half-past 2, and April 21 at 1, London: Off. Ass. Edwards; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, London.—Pet. f. Feb. 27.

WALTER SULLY, Strand, printer, March 14 at half-past 12, and April 17 at 1, London: Off. Ass. Whitmore; Sols. Day & Wright, Paper-buildings, Temple.—Pet. f. March 7.

EDWIN MOSLEY, Hyde-street, Bloomsbury, gold beater, March 10 at half-past 11, and April 8 at half-past 1, London: Off. Ass. Graham; Sol. Broughton, 4, Falcon-square, City.—Pet. f. Feb. 27.

JOHN BISHOP, Shrewsbury, cabinet maker, March 13 and April 3 at half-past 11, Birmingham: Off. Ass. Whitmore; Sol. Knight, Birmingham.—Pet. d. Feb. 27.

JOHN HOOPER DAVIES the younger, Bridgend, Glamorganshire, grocer, March 17 and April 21 at 11, Bristol: Off. Ass. Miller; Sols. J. & H. Livett, Bristol.—Pet. f. Feb. 26.

RICHARD GELDER, Bradford, Yorkshire, general warehouseman, March 19 and April 24 at 11, Leeds: Off. Ass. Young; Sols. Sale & Co., Manchester; Richardson & Gaunt, Leeds.—Pet. d. Feb. 17.

MARMADUKE CHAPLIN, Kingston-upon-Hull, auctioneer, March 18 and April 22 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Wells & Smith, Hull.—Pet. d. Feb. 25.

GEORGE WATMOUGH, formerly of Chester, afterwards of St. Helens, and also of Bolton, and now of Bolton, Lancashire, and Sheffield, Yorkshire, draper, March 13 and April 3 at 12, Manchester: Off. Ass. Hernaman; Sols. Sale & Co., Manchester.—Pet. f. Feb. 23.

JOHN DEMEZA, Manchester, cotton-waste dealer, (carrying on business with Elijah Lawton under the style or firm of J. Demeza & Co.), March 16 and April 8 at 12, Manchester: Off. Ass. Pott; Sols. Boote & Jellicorse, Manchester.—Pet. f. Feb. 20.

JOHN MARTIN COOPER, Sunderland, Durham, shipowner, March 12 at 11, and April 22 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hodge & Harle, Newcastle-upon-Tyne; Sudlow & Co., 38, Bedford-row, London. —Pet. f. Feb. 24.

THOMAS YOUNGE the younger, Monkwearmouth, Sunderland, mason, March 13 at half-past 11, and April 21 at half-past 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sol. Brignal, Durham.—Pet. f. Dec. 20.

THOMAS HENRY COGDON, Sunderland, Durham, plumber, March 13 and April 24 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sol. Brignal, Durham.—Pet. f. Feb. 23.

MEETINGS.

William Henry Grimsdale and *Thomas Hart Grimsdale*, Uxbridge, Middlesex, common brewers, March 17 at 12, London, and. ac.—*William Fitch*, Warley-common, Great Warley, Essex, licensed victualler, March 17 at 12, London, aud. ac.—*Henry Jonathan Hawkins*, Medway-terrace, Lower-road, Rotherhithe, Surrey, dealer in milk, March 16 at 11, London, aud. ac.—*William Lamont Bailey* and *Richard Harvey* the younger, Crutched-friars, City, merchants, March 16 at half-past 11, London, aud. ac.—*Owen Thomas*, Manchester, March 16 at 12, Manchester, aud. ac.—*E. Adams*, Brighton, laceman, March 24 at half-past 11, London, div.—*J. A. N. Dawe*, *J. H. Cottrell*, and *Thos. Benham*, Lawrence Pountney-lane, Cannon-street, and Moorgate-street, seed merchants, March 24 at 1, London, div.—*Samuel Muddiman*, Northampton, shoe manufacturer, March 25 at 12, London, div.—*Geo. Harrison*, Frith-street, Soho-square, ironmonger, March 24 at 2, London, div.—*Henry Wilson* the younger, Old-street-road, currier, March 24 at 12, London, div.—*Geo. Baxter*, Church-street, St. George's, Southwark, currier, March 25 at half-past 11, London, div.—*Jonas Bergtheil*, Abchurch-lane, Winchester-buildings, merchant, March 25 at 11, London, div.—*H. G. Dearlove*, Palace-row, New-road, timber merchant, March 25 at half-past 12, London, div.—*S. D. Simpson*, East Cowes Park, Isle of Wight, licensed victualler, March 25 at 11, London, div.—*Oates Sagar*, Stonefold Mill, near Haslingden, Lancashire, manufacturer, April 2 at 12, Manchester, aud. ac.; April 3 at 12, div.—*Jas. Wakinshaw*, Monkwearmouth, Sunderland, iron manufacturer, March 27 at 11, Newcastle-upon-Tyne, div.—*Fred. Roberts*, Wrexham, Denbighshire, flour dealer, March 24 at 11, Liverpool, div.—*Reuben Hemmingway*, Liverpool, merchant, March 26 at 11, Liverpool, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Green, Sunderland, patent rope manufacturer, March 24 at 2, London.—*Wm. E. Heathfield* and *Wm. Aburrow*, Princes-square, Finsbury, manufacturing chemists, March 24 at 1, London.—*John Hunter*, Little Tower-street Chambers, Eastcheap, merchant, March 24 at 1, London.—*Frederick J. Clarke*, Clapham, baker, March 24 at 12, London.—*William Gaskin*, Croydon, builder, March 25 at 1, London.—*Edward Crofts*, West-place, John's-row, St. Luke's, hearth-rug manufacturer, March 25 at half-past 1, London.—*David Shove*, Croydon, tallow chandler, March 25 at 11, London.—*Thomas Henry Tripney*, Perranporth, Cornwall, woollendraper, March 26 at 1, Exeter.

To be granted, unless an Appeal be duly entered.

Robert Y. Barnes, City-road, floor-cloth manufacturer.—*Thomas Baker* and *James Boswell*, High-street, Poplar, colour manufacturers.—*M. Ingram*, Rugeley, Staffordshire, ironmonger.—*Thomas Bale*, Kidderminster, builder.—*H. Evans*, Wednesbury, Staffordshire, grocer.—*Benjamin Collins*, Toll End, Tipton, Staffordshire, builder.

PARTNERSHIPS DISSOLVED.

Joseph Young, *Robert O. Harrison*, and *William J. Young*, Sunderland, Durham, attornies-at-law and solicitors in Chancery, (so far as regards *Joseph Young*).—*John James Foquett* and *James Alfred Mew*, Newport, Isle of Wight, attornies and solicitors.

SCOTCH SEQUESTRATIONS.

John Mackay, Glasgow, commercial traveller.—*J. Anderson*, Dundee, grocer.—*G. F. Rutherfurd & Co.*, Glasgow, brewers. —*Donald Lamont*, Stronchavie, Moulin, Perthshire, farmer.

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed Edward Maud, Gent., of Leeds, Yorkshire, to be a Commissioner to administer oaths in the High Court of Chancery in England.

MEMBERS RETURNED TO SERVE IN PARLIAMENT.—John Gurdon Rebow, Esq., for the borough of Colchester, in the room of the Right Hon. John James Robert Manners, commonly called Lord John James Robert Manners, who has accepted the office of Steward or Bailiff of her Majesty's manor of Hempholme.—The Right Hon. John James Robert Manners, commonly called Lord John Manners, for the Northern Division of the county of Leicester, in the room of Charles Cecil John Manners, commonly called the Marquis of Granby, now Duke of Rutland, summoned to the House of Peers.

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HENRY BLYTON, York-terrace, Ratcliffe, clothier, March 17 at half-past 11, and April 17 at 12, London: Off. Ass. Graham; Sols. Lawrance & Co., 14, Old Jewry-chambers, London.—Pet. f. March 4.

ALEXANDER SYME, Tunbridge Wells, Kent, stationer, March 18 and April 17 at 1, London: Off. Ass. Stansfeld; Sol. Goddard, King-street, Cheapside.—Pet. f. Feb. 20.

BENJAMIN EDWARDS, Davies-street, Oxford-street, sacking dealer, March 17 at 1, and April 17 at 12, London: Off. Ass. Johnson; Sol. Roscoe, King-street, Finsbury.—Pet. f. March 5.

GEORGE JAMES WAGSTAFF, Whitechapel-road, watchmaker, March 17 at half-past 12, and April 17 at 11, London: Off. Ass. Johnson; Sol. Sidney, 50 a, Lincoln's-inn-fields.—Pet. f. March 3.

JOSIAH WIGLEY, Uttoxeter, Staffordshire, fellmonger, March 16 and April 8 at half-past 10, Birmingham: Off. Ass. Bittleston; Sols. Holden & Son, Liverpool; Tyndall & Co., Birmingham.—Pet. d. Feb. 24.

WILLIAM MARSDEN SALMON, Brettle-lane, Staffordshire, innkeeper, March 16 and April 8 at half-past 10, Birmingham: Off. Ass. Christie; Sols. Sherwood, Leamington Priors; Hodgson & Allen, Birmingham.—Pet. d. Feb. 18.

THOMAS HUGHES, Dudley, Worcestershire, innkeeper, March 20 at half-past 11, and April 9 at half-past 10, Birmingham: Off. Ass. Christie; Sols. Barns, Dudley; E. & H. Wright, Birmingham.—Pet. f. Feb. 28.

THOMAS JAMES THOMAS, commonly called **THOMAS THOMAS**, Cardiff, Glamorganshire, carpenter, March 17 and April 21 at 11, Bristol: Off. Ass. Miller; Sols. Willcocks, Cardiff; Henderson & Haward, Bristol.—Pet. f. Feb. 19.

JAMES GARRETT YATES, Bristol, grocer, March 16 and April 21 at 11, Bristol: Off. Ass. Acraman; Sols. Henderson & Howard, Bristol.—Pet. f. Feb. 28.

THOMAS IRLAM, Liverpool, broker, March 23 and April 8 at 11, Liverpool: Off. Ass. Morgan; Sols. J. & E. Whitley, Liverpool.—Pet. f. March 3.

JAMES BOOKLESS, Maryport, Cumberland, grocer, (trading with John Miller, under the firm of Miller & Bookless), March 13 at 1, and April 20 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Heethwaite, Maryport; Cram, Newcastle-upon-Tyne.—Pet. f. Feb. 27.

THOMAS YOUNGER (and *not* **YOUNGE**, as previously advertised) the younger, Monkwearmouth, Sunderland, builder, March 13 at half-past 11, and April 21 at half-past 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sol. Brignal, Durham.—Pet. f. Dec. 20.

Meetings.

Louis Rochefort, Broad-street-buildings, City, importer of foreign goods, March 17 at 2, London, last ex.—*Samuel Gifford*, Mark-lane, City, sail cloth merchant, March 17 at half-past 12, London, aud. ac. and last ex.—*John Richard Dawson*, West Cowes, Isle of Wight, hotel keeper, March 18 at 11, London, aud. ac.—*Frederick Roberts*, Wrexham, Denbighshire, flour dealer, March 23 at 11, Liverpool, aud. ac.—*Chamney Leicester* and *John Eeles Littleboy*, Liverpool, corn merchants, March 23 at 11, Liverpool, aud. ac. joint est., and sep. est. of *Chamney Leicester*.—*Reuben Hemingway*, Liverpool, merchant, March 20 at 11, Liverpool, aud. ac.—*George Worrall Jones*, Crickhowell, Breconshire, banker, April 9 at 11, Bristol, aud. ac.—*Francis Boyd*, Tynemouth, Northumberland, grocer, March 18 at 1, Newcastle-upon-Tyne, aud. ac.—*John Alfred Hatfield*, Bradford, Yorkshire, draper, March 20 at 12, Leeds, aud. ac.—*Joshua Unwin*, Bradford, Yorkshire, stuff manufacturer, March 19 at 11, Leeds, aud. ac.—*Henry Shaw*, Halifax, Yorkshire, worsted spinner, March 19 at 11, Leeds, aud. ac.—*Thomas Hardacre*, Settle, Yorkshire, mercer, March 19 at 11, Leeds, aud. ac.—*Martha Hope Ireland*, Newton Heath, Lancashire, dyer, March 18 at 12, Manchester, aud. ac.—*William Francis Schmellinger*, Gracechurch-street, tavern keeper, March 28 at half-past 11, London, div.—*Frederick Hale Thompson*, Berners-street, Oxford-street, and West-end, Hampstead, manufacturer of silvered glass ware, March 28 at 12, London, div.—*Henry Turner*, Belvedere-terrace, Belvedere-road, Surrey, ribbon manufacturer, March 28 at half-past 11, London, div.—*Geo. Children*, Tunbridge, Kent, banker, March 30 at 1, London, div.—*Henry Christian*, Mincing-lane, City, coffee merchant, March 30 at half-past 11, London, div.—*Abraham Scott*, Manchester, ironmonger, March 17 at 12, Manchester, aud. ac.; April 1 at 12, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Wm. Smith, Hemel Hempstead, Watford, Hertfordshire, banker, March 28 at 11, London.—*Joseph Whiteside*, Davies-street, Berkeley-square, clock manufacturer, March 30 at 12, London.—*Geo. W. Jones*, Crickhowell, Breconshire, banker, April 17 at 11, Bristol.—*Michael Byers* and *Thomas Byers*, Monkwearmouth Shore, Sunderland, Durham, shipbuilders, March 30 at half-past 11, Newcastle-upon-Tyne.—*William Balshaw*, Liverpool, joiner, March 30 at 11, Liverpool.—*T. Banks*, Chorley, Lancashire, ironmonger, April 2 at 2, Manchester.—*Edward Jenkins*, Birmingham, draper, March 30 at 10, Birmingham.

To be granted, unless an Appeal be duly entered.

James Lea, Dartford, Kent, tailor.—*Edmund Gwyer* the younger, Gracechurch-street, City, insurance broker.—*Thos. Perry*, High-street, Southwark, confectioner.—*Abraham Coronel*, Minories, cigar manufacturer.—*Robert Feast*, Finsbury-pavement and Little Moorfields, City, Italian warehouseman.—*Joseph Traves*, Newchurch, Lancashire, woollen manufacturer.—*Wm. Copp*, Chequerbent, near West Houghton, Lancashire, silk manufacturer.—*John Wheen* and *John Malin*, Sheffield, Yorkshire, joiners.

Partnership Dissolved.

James Wheeler and *Wm. Yates Caistor*, John-st., Adelphi, attornies and solicitors.

Scotch Sequestrations.

George Aitken, Glasgow, draper.—*Peter Brown*, Dundee, flesher.—*James Gordon M'Kay*, Edinburgh, drysalter.

Tuesday, *March* 10.

Bankrupts.

MAURICE MEYER and **SIGISMUND SECKEL**, Newgate-street, general merchants, (trading under the firm of Meyer & Co.), March 24 at 11, and April 21 at 12, London: Off. Ass. Stansfeld; Sol. Hewitt, 6, Nicholas-lane, City.—Pet. f. March 6.

WILLIAM JOSEPH WHITE and **LACY BATHURST**, Regent-street, Westminster, drapers, March 20 at half-past 12, and April 24 at half-past 11, London: Off. Ass. Cannan; Sols. Reed & Co., 59, Friday-street, Cheapside.—Pet. f. March 9.

WILLIAM WILSON and **HENRY WILSON**, Foley-place, Portland-place, bookbinders, March 20 and April 24 at 11, London: Off. Ass. Cannan; Sol. Preston, 9, Carey-street, Lincoln's-inn.—Pet. f. March 2.

BENJAMIN COLLIS, Bishop's Stortford, Hertfordshire, draper, March 19 at 1, and April 23 at 12, London: Off. Ass. Bell; Sols. Mardon & Prichard, Newgate-street.—Pet. f. March 7.

DANIEL SMITH, Harriet-street, Sloane-street, Chelsea, apothecary, March 21 at 1, and April 21 at 2, London: Off. Ass. Edwards; Sols. Nichols & Clark, 9, Cook's-court, Lincoln's-inn.—Pet. f. March 9.

CHARLES ROBINSON, Strand, masonic jeweller, March 25 at 1, and May 2 at 11, London: Off. Ass. Nicholson; Sol. Flux, Moira-chambers, 17, Ironmonger-lane, City.—Pet. f. March 9.

JOHN TAYLOR, Sheffield, auctioneer, March 21 and April 25 at 10, Sheffield: Off. Ass. Brewin; Sols. Hoole & Yeomans, Sheffield.—Pet. d. and f. March 7.

CHARLES HEALEY, Manchester, wholesale clothier, March 24 and April 27 at 12, Manchester: Off. Ass. Fraser; Sol. Stead, Manchester.—Pet. f. March 2.

[*For continuation of Gazette, see p.* 103].

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THE JURIST.

LONDON, MARCH 14, 1857.

THE maxim "In jure non remota causa, sed proxima spectatur," has had its true limits assigned to it by the Court of Queen's Bench in the recent case of *Thompson* v. *Hopper*, (3 Jur., N. S., part 1, p. 133; 26 L. J., Q. B., 18). Like other maxims, it requires to be taken in a non-literal sense, for it is as necessary in law as in logic (and in this respect they are identical) to trace effects to their primary causes, however remote they may be. To rest on secondary causes merely is a fertile source of error, and in the administration of justice would be the means of doing serious wrong. The *efficient* cause, or the cause sine quâ non, is the *true cause*, everything that follows from it being rather a series of effects than causes in themselves. The maxim in question has been thus paraphrased by Lord Bacon:—"It were infinite for the law to consider the causes of causes, and their impulsions one of another; therefore it contenteth itself with the immediate cause, and judgeth of acts by that, without looking to any further degree." Far more difficult and complicated questions, however, than the tracing of a sequence of events to the first cause are daily solved in our courts of justice in a satisfactory manner. And indeed, in the application of this maxim, which is generally in cases of insurance, it will be found to be practically disregarded wherever it conflicts with the principles of insurance law, or the manifest intention of the parties. Thus, where a vessel laden with hides and tobacco had in the course of the voyage shipped large quantities of sea-water, and at the termination of the voyage it was discovered that the sea-water had rendered the hides putrid, and that the putrefaction of the hides had imparted an ill flavour to the tobacco, and had thereby injured it, it was held that the damage thus occasioned to the tobacco was a loss by perils of the sea. (*Montoya* v. *The London Insurance Company*, 6 Exch. 451). Here the Court ascended from the proximate cause, the putrefaction of the hides, to that which made them putrid, the shipping of sea-water. So where, upon an insurance against loss by fire, the loss resulted from fire occasioned by the barratrous act of the master and crew, it was held that the loss by fire so caused was not within the policy. (*Waters* v. *The Louisville Insurance Company*, 11 Peters' Rep., U. S., 219; Broom's Maxims, 170). And where a neutral American ship was captured, and condemned in a French court as prize, on the ground that she was not provided with the proper documents, it was held that the owners could not recover upon the insurance on the ship as for a loss by capture, as their neglect was the efficient cause of the loss. (*Bell* v. *Carstairs*, 14 East, 374). And in *Thompson* v. *Hopper* the various links of the chain were traced with a careful hand, until at length the faulty one that really caused the disaster was fixed upon and condemned. The facts were these:—A ship, having been loaded in Sunderland Harbour, was sent out of the harbour, and across the bar, into an open roadstead, for the purpose of taking advantage of a spring tide. At this time her rigging was in some respects incomplete, and in consequence thereof she was obliged to be brought up in the roadstead, and riggers were sent out, who completed her rigging and equipment there. After the defects had been repaired, but before the ship had left the roadstead, a sudden storm came on, which caused her to drag her anchor, and being unable to slip the cable, she went on shore and was wrecked. An action was now brought on the policy of insurance which had been effected upon her, it being alleged by the insurer that the loss had been caused by the perils of the sea. It was proved at the trial, in addition to the above-mentioned facts, that it was by the authority of the insurer that the ship was sent out of the harbour, and that he was aware of the state in which she was when she left. The learned judge who presided at the trial asked the jury to find whether any of these wrongful acts on the part of the insurer were the *direct and proximate* cause of the loss; but the full Court held that this was a misdirection, and that they should have been asked to find whether any of such acts were the *efficient cause*, without which the loss would not have happened. Lord Campbell, C. J., in delivering the judgment of the Court, said—"The maxim 'In jure non remota causa, sed proxima spectatur,' is qualified by another general maxim, 'Dolus circuitu non purgatur;' and 'dolus' means any wrongful act tending to the damage of another. This is well illustrated by the case of *Davies* v. *Garbett*, (6 Bing. N. C. 717), which was an action for not safely carrying lime for the plaintiff in the defendant's barge on a certain voyage, the declaration alleging that the barge deviated from the usual and proper course of the voyage, and by means thereof was assailed by a storm and wrecked, whereby the lime was lost. In fact, the master of the barge did unnecessarily and wrongfully deviate from the usual and proper course of the voyage. During the deviation a tempest wetted the lime, and, the barge taking fire, the whole was lost. The defence was, that the loss did not arise directly and proximately from the deviation. 'But,' said Tindal, C. J., 'it is obvious that the legal consequences must be the same whether the loss was immediately by the sinking of the barge at once by a heavy sea when she was out of her direct and usual course, or whether it happened at the same place, not in consequence of an immediate death-wound, but by a connected chain of causes producing the same ultimate event. We think that no wrongdoer can be allowed to apportion or qualify his own wrong, and that as a loss has actually happened while his wrongful act was in operation and force, and which is attributable to his wrongful act, he cannot set up as an answer to the action the bare possibility of a loss if his wrongful act had never been done.' . . . We are of opinion that the maxim relied upon can never be applied where it contravenes the fundamental rule of insurance law, that the insurers are not liable for a loss occasioned by the wrongful act of the insured." And Lord Campbell delivered it as the opinion of the Court, that the question in such cases was, not whether the "wrongful act or neglect of the insured was the proximate cause or causa causans of the loss, but whether it was a cause without which the loss would not have happened." This decision, it will be seen, affirms that the Courts will look beyond the proximate to the remote cause; at all events, in two cases—first, where a contrary course would contravene the principles of insurance law, e. g. where the loss has been occasioned by the wrongful act or neglect of the insurer, in which case he ought not to be indemnified; and, secondly, where it would contravene the manifest intention of the parties.

The judgment in *Thompson* v. *Hopper* may also be usefully applied to the doctrine of remoteness of damage; and we cannot help thinking that it will tend to place it upon a more satisfactory footing than it has hitherto occupied. In those instances in which it clearly appears that the defendant's wrongful act was the *efficient* cause of the damage, what difference does it make in the legal any more than in the logical result, that such damage was not proximate, but removed from the wrongful act by several intermediate effects? The question is one, no doubt, of considerable difficulty, but it may be well, in reference to it, to bear in mind the language of Tindal, C. J.—"No wrongdoer can be allowed to apportion or qualify his own wrong."

Correspondence.

GUARDIANSHIP IN CHANCERY.—*IN RE RACE.*

TO THE EDITOR OF "THE JURIST."

SIR,—Your correspondent "H." has really confirmed my argument, which was, that the *mere* fact that the mother is of a *different* form of religion from the father (apart either from testament or trust) does not give the Chancellor jurisdiction to withdraw the child from her, assuming that legally and socially both religions are on a par. He cites *Lady Darnley's case*, (*Bligh* v. *Bligh*, Set. Dec. 534); but there the mother was an Irvingite, and certainly there was, socially speaking, a danger of "disparagement" to the heir of the peer of the realm; and the case came within the principle on which *In re Hunt* (2 Con. & Lef. Ir. Rep. 371) was decided by Lord St. Leonards.

Your correspondent says that the decision in *Re Race* was mainly based on *Bligh* v. *Bligh*. It could hardly, I think, have been so, since the ratio decidendi in the two cases could not possibly have been the same, as your correspondent clearly shews that there were *special* grounds in *Re Race*, probably as he states them, sufficient to sustain the decision; but even if so, perfectly consistent with my argument, which is, that the child cannot be withdrawn from the mother *solely* on the ground of difference of religion; and in both my articles I expressly intimated that possibly the decision in *Re Race*, as in *Re North*, might be upheld on special grounds. Your correspondent, therefore, rather supports my general argument, by shewing the strong special grounds which existed in that case *against* the mother's claim. He says, indeed, I am mistaken in stating that "the question of jurisdiction" was not argued in *Re Race*. But what I meant was, that it was not argued on the several grounds I take; and most unquestionably it was not; as I, who was counsel in the case, (though not in equity), can state, on the same authority as that on which he makes his statement—a statement, indeed, which, coupled with this explanation, is quite consistent with mine. The "question of jurisdiction," as far as it was argued, was founded on collateral grounds, as colourable locus standi, legitimacy, &c. But the counsel for the mother did not, and *could* not under the circumstances, argue the simple question *I* have argued, upon general principles; for there were *special* circumstances which *displaced* the general principle in that case; and I am glad your correspondent "H." has made this clear.

I am, Sir, your faithful servant,

The Writer of the Articles on the Subject.

Reviews.

The Practice of the County Courts; with the Decisions of the Superior Courts, and Tables of Fees. Also Appendices, containing all the Statutes, Rules of Practice, and Forms. The Third Edition, in Two Parts. By Charles Edward Pollock *and* Henry Nicol, *Esqrs., Barristers-at-Law.* [*Sweet*, 1857.]

The second edition of this work was published in 1853, and since that period the act of last session has worked most important alterations in the law administered by county courts, while the New Rules framed under it constitute a consolidated practice in those popular tribunals. The Friendly Societies Acts have affected the jurisdiction of county courts, and summary procedure with regard to bills of exchange has been extended to them. The decisions in our superior courts upon this branch of law have also been numerous and important. Mr. Pollock and Mr. Nicol have skilfully dealt with these accumulated materials, and have produced a valuable book, containing all that can be desired upon the subject. It is divided into two parts. The first treats of the jurisdiction of the courts in all matters except those which arise under the insolvent and protection statutes. These are contained in the second part. An appendix of statutes and forms, together with a full index, follows each part, and may be easily distinguished by the edges of the leaves being differently coloured.

The Magisterial Synopsis: a Practical Guide for Magistrates, their Clerks and Attornies, in all Matters out of Quarter Sessions; containing Summary Convictions and Indictable Offences, with their Penalties, Punishments, Procedure, &c., tabularly arranged. By George C. Oke, *Assistant Clerk to the Lord Mayor of London. Fifth Edition.* [*Butterworth*, 1857.]

The wide scope of jurisdiction conferred upon magistrates, and the varied and complicated character of their duties, have rendered practical works of reference upon the subject essential to the magistrate and to the practitioner in his courts. Mr. Oke's "Synopsis" of the law, as administered by justices out of quarter sessions, is too well known and too highly appreciated to require comment from us. It is sufficient to mention the appearance of the fifth edition, simply adding that it contains several new titles, namely, "Betting Houses," "Customs," "Merchant Shipping," "Nuisances," "Reformatory Schools," "Seamen," and "Ships' Passengers;" and a new chapter upon summary jurisdiction in larceny.

Members returned to serve in Parliament.—Walter Buchanan, Esq., for the city of Glasgow, in the room of John M'Gregor, Esq., who has accepted the office of Steward of her Majesty's Manor of Northstead, Yorkshire.—Henry North Holroyd, commonly called Viscount Pevensey, for the Eastern Division of the county of Sussex, in the room of Charles Hay Frewen, Esq., who has accepted the office of Steward of her Majesty's Chiltern Hundreds.

PUBLIC EXAMINATION OF STUDENTS.

Trinity Term, 1857.

The Council of Legal Education have approved of the following rules for the public examination of the students.

The attention of the students is requested to the following rules of the Inns of Court:—

"As an inducement to students to propose themselves for examination, studentships shall be founded of fifty guineas per annum each, to continue for a period of three years, and one such studentship shall be conferred on the most distinguished student at each public examination; and further, the examiners shall select and certify the names of three other students who shall have passed the next best examinations, and the Inns of Court to which such students belong may, if desired, dispense with any terms, not exceeding two, that may remain to be kept by such students previously to their being called to the Bar. Provided that the examiners shall not be obliged to confer or grant any studentship or certificate unless they shall be of opinion that the examination of the students they select has been such as entitles them thereto."

"At every call to the Bar those students who have passed a public examination, and either obtained a studentship or a certificate of honour, shall take rank in seniority over all other students who shall be called on the same day."

"No student shall be eligible to be called to the Bar who shall not either have attended during one whole year the lectures of two of the Readers, or have satisfactorily passed a public examination."

Rules for the Public Examination of Candidates for Honours, or Certificates entitling Students to be called to the Bar.

An examination will be held in next Trinity Term, to which a student of any of the Inns of Court, who is desirous of becoming a candidate for a studentship or honours, or of obtaining a certificate of fitness for being called to the Bar, will be admissible.

Each student proposing to submit himself for examination will be required to enter his name at the treasurer's office of the Inn of Court to which he belongs on or before Tuesday, the 12th day of May next; and he will further be required to state in writing whether his object in offering himself for examination is to compete for a studentship or other honourable distinction, or whether he is merely desirous of obtaining a certificate preliminary to a call to the Bar.

The examination will commence on Tuesday, the 19th day of May next, and will be continued on the Wednesday and Thursday following.

It will take place in the Benchers' Reading-room of Lincoln's-inn; and the doors will be closed ten minutes after the time appointed for the commencement of the examination.

The examination by printed questions will be conducted in the following order:—

Tuesday morning, the 19th May, at half-past nine, on Constitutional Law and Legal History; in the afternoon, at half-past one, on Equity.

Wednesday morning, the 20th May, at half-past nine, on Common Law; in the afternoon, at half-past one, on the Law of Real Property, &c.

Thursday morning, the 21st May, at half-past nine, on Jurisprudence and the Civil Law; in the afternoon, at half-past one, a paper will be given to the students including questions bearing upon all the foregoing subjects of examination.

The oral examination will be conducted in the same order, during the same hours, and on the same subjects, as those already marked out for the examination by printed questions, except that on Thursday afternoon there will be no oral examination.

The oral examination of each student will be conducted apart from the other students; and the character of that examination will vary, according as the student is a candidate for honours or a studentship, or desires simply to obtain a certificate.

The oral examination and printed questions will be founded on the books below mentioned, regard being had, however, to the particular object with a view to which the student presents himself for examination.

In determining the question, whether a student has passed the examination in such a manner as to entitle him to be called to the Bar, the examiners will principally have regard to the general knowledge of law and jurisprudence which he has displayed.

A student may present himself at any number of examinations, until he shall have obtained a certificate.

Any student who shall obtain a certificate may present himself a second time for examination as a candidate for the studentship, but only at one of the three examinations immediately succeeding that at which he shall have obtained such certificate; provided, that if any student so presenting himself shall not succeed in obtaining the studentship, his name shall not appear in the list.

Students who have kept more than eleven terms shall not be admitted to an examination for the studentship.

The Reader on Constitutional Law and Legal History proposes to examine on the following subjects:—

He will expect the candidates for honours in the ensuing examination to possess a general knowledge of the leading events of English History, from the Conquest to the close of the last century.

He will expect them to be accurately acquainted with the Chapters in Hallam's Constitutional History which treat of the Reigns of Elizabeth, of James I, Charles I, Charles II, and William; with the first volume of Lord Clarendon; with May's History; with the Chapters in Rapin and Tindal or Belsham, giving an account of those Reigns; and with Bishop Burnet's Memoirs of his own Times during the Reigns of Charles II and William III.

He will expect them to be acquainted with the Law of Treason and the Law relating to the Press down to the present time; and with the most important State Trials and Impeachments during the reigns he has mentioned.

The candidates for a pass will be required to answer general questions in English History, and to be well acquainted with the History of the Reigns of Elizabeth, of Charles I, and Charles II.

They will be expected also to shew a competent knowledge of the State Trials during the reigns of Charles II and James II.

The Reader on Equity proposes to examine in the following books:—

1. Smith's Manual of Equity Jurisprudence. Mitford on the Pleadings in the Court of Chancery—Introduction; c. 1, ss. 1, 2; c. 2, s. 1; c. 2, s. 2, part 1, (the first three pages); c. 2, s. 2, part 2, (the first two pages); c. 2, s. 2, part 3; c. 3. The Act for the Improvement of the Jurisdiction of Equity, 15 & 16 Vict. c. 86.

2. The Cases and Notes contained in the first volume of White & Tudor's Leading Cases.

Candidates for certificates of fitness to be called to the Bar will be expected to be well acquainted with the books mentioned in the first of the above classes.

Candidates for the studentship or honours will be examined in the books mentioned in the two classes.

The Reader on the Law of Real Property, &c. proposes to examine in the following books and subjects:—

1. Joshua Williams on Real Property; the same author on Personal Property; Hayes on the Common Law, Uses and Trusts.

2. The Common Forms of Conveyance and Mortgage of Real Property; of Assignments of Leaseholds for Years; and of Marriage Settlements of Real and Personal Estate.

3. The Law of Dower; the Dower Act, 3 & 4 Will. 4, c. 105, and the Decisions upon that Act.

4. The Doctrine of Notice as between Vendor and Purchaser.

5. The Extinguishment and Suspension of different Kinds of Powers and the excessive Execution of Powers; *Edwards* v. *Slater*, (Hardr. 410); *Alexander* v. *Alexander*, (2 Ves. sen. 640); and the Notes to those Cases in Tudor's Leading Cases in Conveyancing, pp. 277 and 299 respectively.

Candidates for honours will be examined in all the foregoing books and subjects, and candidates for a certificate in those under heads 1, 2, and 3.

The Reader on Jurisprudence and the Civil Law proposes to examine candidates for honours in the following subjects:—

1. The Elements of the Roman Law of Dominion, Possession, Prescription, and Servitudes, to be studied in the Institutiones Juris Romani Privati of Warnkönig, lib. 2, c. 1, ed. of 1834, or in any similar Compendium of Pandect Law.

2. The Creation and Extinction of Rights and Duties—Lindley's Introduction to the Study of Jurisprudence, part 2, c. 4.

3. International Rights of States in their Pacific Relations—Wheaton's Elements of International Law, part 3, cc. 1, 2.

Candidates for a certificate will be examined in—

1. The first two books of the Institutes of Justinian, with the Notes to Sandars's edition.

2. Wheaton's Elements of International Law, part 3, cc. 1, 2.

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Candidates for a pass certificate will be expected to be familiar with—

1. The Elements of our Criminal Law, particularly having reference to the following offences—Homicide, Simple Larceny, Assaults, aggravated or otherwise. This subject may be read from Archbold's Criminal Pleading by Welsby, or from the fourth volume of Blackstone's (21st edition) or Stephen's Commentaries.

2. The first thirty-three sections of the Common-law Procedure Act, 1852.

3. The Nature and Classification of Contracts and Torts, so far as explained in Broom's Commentaries, pp. 257—377, 658—688; and illustrated by *Lampleigh* v. *Brathwait* and *Ashby* v. *White*, (1 Smith's L. C. 118, 185, 4th ed.), with the Notes thereto.

Candidates for the studentship or honours will be examined in the first and third of the above subjects, and also in—

4. Smith's Lectures on the Law of Landlord and Tenant. (Lects. 5, 6, and 9).

5. The 4th and 17th sections of the Statute of Frauds, (as explained in any recent Treatise upon Contracts), and the 3rd section of the 19 & 20 Vict. c. 97.

6. The case of *Humphries* v. *Brogden*, (12 Q. B. 739).

By order of the Council,
Richard Bethell, Chairman.

Council Chamber, Lincoln's Inn,
March 3, 1857.

WILLIAM TWEEDALE, Ashton-under-Lyne, Lancashire, grocer, March 24 and April 21 at 12, Manchester: Off. Ass. Pott; Sols. Rowley & Son, Manchester.—Pet. f. March 6.

ROBERT TAYLOR, Sunderland, Durham, draper, (trading under the style or firm of Robert Taylor & Co.), March 20 and April 24 at 11, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hodge & Harle, Newcastle-upon-Tyne; Sudlow & Co., Bedford-row, London.—Pet. f. March 5.

MEETINGS.

Wm. Strahan, *Sir John Dean Paul*, *Bart.*, and *Robert Makin Bates*, Strand, bankers, April 4 at 11, London, pr. d. sep. ests.—*James Turner*, Newcastle-upon-Tyne, oil merchant, March 24 at 11, Newcastle-upon-Tyne, last ex.—*R. N. Clemens*, Liskeard, Cornwall, tailor, March 26 at 1, Exeter, last ex.—*Isaac Barker*, Scarborough, Yorkshire, draper, April 7 at 11, Leeds, last ex.—*Richard Carpenter*, Museum-street, Bloomsbury, licensed victualler, March 21 at 12, London, aud. ac.—*Richard Harrison* and *John J. Cole*, Twig Folly, Bethnal-green, barge builders, March 21 at 12, London, aud. ac.—*George Davey*, Murray-st., New North-road, plumber, March 24 at half-past 11, London, aud. ac.—*George Fearis*, Lambeth-walk, Surrey, draper, March 24 at 12, London, aud. ac.—*W. Bennett*, Portishead, Somersetshire, carpenter, April 9 at 11, Bristol, aud. ac.—*W. Tyson*, Liverpool, corn dealer, April 15 at 11, Liverpool, aud. ac.; April 22 at 11, div.—*James Wakinshaw*, Monkwearmouth, Sunderland, iron manufacturer, March 26 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Wm. Calvert* and *Wm. Calvert* the younger, Sunderland, Durham, hardwaremen, March 27 at half-past 12, Newcastle-upon-Tyne, aud. ac.—*Wm. N. Anderton*, Kingston-upon-Hull, merchant, April 1 at 12, Kingston-upon-Hull, aud. ac. and div.—*J. Teasdale* and *G. A. Swales*, Sheffield, timber merchants, March 21 at 10, Sheffield, aud. ac. sep. ests.—*D. Shove*, Croydon, Surrey, tallow chandler, April 1 at 11, London, div.—*J. Oldham*, Long-acre, Middlesex, currier, April 1 at 12, London, div.—*Henry Barnes*, Winchester, Southampton, wine merchant, April 2 at half-past 11, London, div.—*Wm. Dent*, Newcastle-street, Strand, lead merchant, April 2 at half-past 1, London, div.—*Thomas Varty* and *Edwin Henry Owen*, Strand, publishers, March 31 at half-past 11, London, div. sep. est. of *Edwin Henry Owen*.—*W. Phillips*, Wallingford, Berkshire, builder, March 31 at 2, London, div.—*Edward Jenkins*, Birmingham, draper, April 1 at 11, Birmingham, aud. ac. and div.—*Edwin John Hodder*, Birmingham, grocer, April 1 at half-past 11, Birmingham, aud. ac. and div.—*George Roberts*, Stamford, Lincolnshire, draper, April 21 at half-past 10, Nottingham, aud. ac. and div.—*Joseph Henry Clarke*, Leicester, hatter, April 21 at half-past 10, Nottingham, aud. ac. and div.—*James Constantine*, Scout, near Newchurch, Rossendale, Lancashire, cotton spinner, March 14 at 12, Manchester, aud. ac.; March 31 at 12, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Thomas Cantrill, Rivers-terrace, York-road, King's-cross, railway grease manufacturer, April 3 at 11, London.—*Edmund Goddard*, London-wall, Old Jewry, Fenchurch-street, and Aldgate, provision dealer, April 1 at half-past 12, London.—*James Walker*, Arundel, Sussex, scrivener, April 2 at half-past 12, London.—*George Deeks*, Pembridge-villas, Westbourne-grove, Bayswater, auctioneer, April 2 at 11, London.—*Henry Augustus Hope*, West-street, Smithfield, and Oxford-road, Islington, hay salesman, April 1 at 2, London.—*William Burch*, Back-hill, Hatton-garden, boot-tree maker, April 1 at half-past 12, London.—*George Beresford*, Portsmouth-street, Lincoln's-inn-fields, and Wych-street, Strand, carver, April 1 at half-past 1, London.—*John Vernon*, Low Walker, Northumberland, iron-ship builder, April 7 at half-past 11, Newcastle-upon-Tyne.—*Edward Crowther*, Manchester, merchant, April 3 at 1, Manchester.—*E. Von Dadelszen*, Liverpool, metal broker, April 1 at 11, Liverpool.—*John Gladstone* the younger, Liverpool, ironfounder, April 2 at 11, Liverpool.—*Richard Davis* the elder, West Bromwich, Staffordshire, coal master, April 9 at half-past 10, Birmingham.—*Wm. Foster*, Birmingham, timber merchant, April 2 at half-past 10, Birmingham.—*George Ball*, New Lenton, Nottinghamshire, plumber, April 21 at half-past 10, Nottingham.—*John Morley*, Nottingham and Sneinton, Nottinghamshire, joiner, April 21 at half-past 10, Nottingham.—*James Wootton*, Leicester, builder, April 21 at half-past 10, Nottingham.

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GAZETTES.—Friday, *March* 13.

Bankrupts.

THOMAS RUSSELL, late of Oxford, schoolmaster, now of Peter's-hill, Doctors'-commons, City, March 24 at 2, and April 21 at 11, London: Off. Ass. Graham; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. March 10.

OCTAVE FOA, Old Broad-street, City, merchant, March 30 at half-past 12, and May 2 at 12, London: Off. Ass. Pennell; Sols. Crowder & Co., 57, Coleman-street.—Pet. f. March 10.

RICHARD KEMSLEY DAY, Bermondsey-street, Southwark, fuel manufacturer, March 24 and April 23 at 2, London: Off. Ass. Lee; Sol. Chidley, 10, Basinghall-street.—Pet. f. March 11.

LEOPOLD STRAUS, Fenchurch-street, London, and Rue de Bouloi, Paris, corn merchant, (carrying on business with Daniel Straus, resident at Bordeaux, France, under the firm or style of Straus Brothers), March 24 at half-past 2, and April 23 at 2, London: Off. Ass. Lee; Sols. Piercey & Hawks, 2, Three-crown-square, Southwark.—Pet. f. March 11.

BENJAMIN BROWNING, Hereford, victualler, March 27 and April 17 at half-past 11, Birmingham: Off. Ass. Bittleston; Sols. Pritchard, Hereford; Suckling, Birmingham.—Pet. d. March 3.

GEORGE SPILSBURY, Wolverhampton, Staffordshire, builder, March 27 and April 17 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Smith, Wolverhampton; Knight, Birmingham.—Pet. d. March 10.

GEORGE LEWIS, Cwmbach, Aberdare, Glamorganshire, innkeeper, March 30 and April 27 at 11, Bristol: Off. Ass. Acraman; Sols. Abbott & Lucas, and Hobbs, Bristol.—Pet. f. Feb. 25.

GEORGE ELIJAH SMART, Lyncombe and Widcombe, Bath, Somersetshire, victualler, March 30 and April 27 at 11, Bristol: Off. Ass. Miller; Sols. Hellings & Son, Bath.—Pet. f. March 3.

HENRY DYER, Bristol, cabinet maker, March 30 and April 28 at 11, Bristol: Off. Ass. Acraman; Sol. Trenerry, Bristol.—Pet. f. March 11.

NATHAN MITCHELL, Leeds, Yorkshire, merchant, March 30 at 12, and April 27 at 11, Leeds: Off. Ass. Hope; Sols. Barr & Nelson, Leeds.—Pet. d. Feb. 16.

JAMES CHATTERTON and **MOSES CHATTERTON**, Horncastle, Lincolnshire, millers, March 25 and April 22 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sol. Chambers, Lincoln.—Pet. d. March 6.

WILLIAM SMITH GOODING, Manchester, tailor, March 23 and April 22 at 12, Manchester: Off. Ass. Fraser; Sols. Boote & Jellicorse, Manchester.—Pet. f. March 11.

JAMES KING, Manchester, commission agent, April 2 and 23 at 1, Manchester: Off. Ass. Hernaman; Sol. Rowley, Manchester.—Pet. f. March 10.

GEORGE WILLIAMSON, Crosthwaite, Cumberland, woollen manufacturer, March 27 at 11, and April 29 at 1, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hall, Keswick, Cumberland; Watson, Newcastle-upon-Tyne; Tatham & Procter, 10, Lincoln's-inn-fields.—Pet. f. March 10.

JOHN COWAN, Newcastle-upon-Tyne, cheesemonger, March 24 at 11, and April 29 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Watson, Newcastle-upon-Tyne; Harwood, 10, Clement's-lane, Lombard-street, London.—Pet. f. March 3.

Meetings.

Domenico Braggiotti and *Paul Testa*, Lombard-st., merchants, March 26 at 11, London, ch. ass.—*James Glover*, Thames Ditton, Surrey, dealer in wine, March 24 at 12, London, last ex.—*Wm. P. Hammond*, Scott's-yard, Bush-lane, City, shipowner, March 24 at 1, London, last ex.—*Joseph Van Raalte* the younger, Gloucester-terrace, St. John's-road, Hoxton, importer of French goods, March 25 at 1, London, aud. ac.; at half-past 1, last ex.—*S. Muddiman*, Northampton, shoe manufacturer, March 25 at 12, London, last ex.—*Robert Barwick*, Sunderland, shipowner, March 26 at half-past 12, Newcastle-upon-Tyne, last ex.—*John H. Stevens*, Great Wild-street, Lincolu's-inn-fields, engraver, March 25 at 12, London, aud. ac.—*Richard Griffith* the elder and *Richard Griffith* the younger, Hatton-wall, and St. James's-walk, Clerkenwell, brassfounders, March 25 at 1, London, aud. ac.—*Catherine Humphrey*, Baker-street, Portman-sq., bookseller, March 25 at 12, London, aud. ac.—*George N. Solomon*, Euston-place, New-road, merchant, March 23 at half-past 11, London, aud. ac.—*John P. Knight*, Hibernia-chambers, Southwark, Surrey, and York-street, Pentonville, Middlesex, hop merchant, March 23 at 12, London, aud. ac.; April 6 at 11, div.—*John Oldham*, Long-acre, currier, March 30 at 11, London, aud. ac.—*Joseph Whiteside*, Davies-street, Berkeley-square, watch manufacturer, March 30 at 12, London, aud. ac.—*David Shove*, Croydon, tallowchandler, March 25 at 11, London, aud. ac.—*Henry G. Dearlove*, Palace-row, New-road, timber merchant, March 23 at 11, London, and. ac.—*Nathaniel Messiter*, Frome, banker, April 9 at 11, Bristol, aud. ac. and div.—*Wm. B. Jones*, Bristol, pastrycook, March 26 at 11, Bristol, aud. ac.—*Richard Davis*, Cardiff, Glamorganshire, ship broker, March 26 at 11, Bristol, aud. ac.—*Major Kirkup*, Jarrow, Durham, brick manufacturer, April 2 at 12, Newcastle-upon-Tyne, aud. ac.—*G. Johnson*, Billingham, Durham, corn merchant, March 31 at 11, Newcastle-upon-Tyne, aud. ac.—*Samuel Howel Grieveson* and *Cuthbert Richardson Grieveson*, Sunderland, joiners, April 2 at 12, Newcastle-upon-Tyne, aud. ac.—*Tottenham Lee*, Wakefield, Yorkshire, worsted yarn manufacturer, March 26 at 11, Leeds, and. ac.—*Samuel Danford*, Battersea-fields, Surrey, and George-yard, Lombard-st., City, money scrivener, April 3 at half-past 1, London, div.—*Charles H. Harben*, Goulstone-street, High-street, Whitechapel, and Carlton-hill-villas, Camden-road, Holloway, wholesale cheesemonger, April 3 at 1, London, div.—*George Fearis*, Lambeth-walk, draper, April 4 at 12, London, div.—*W. Joyce*, Greenwich, engineer, April 4 at 12, London, div.—*Edward Smith*, Isleworth, Middlesex, baker, April 3 at 1, London, div.—*Samuel Peirson*, Sun-st., Bishopsgate-street Without, ironmonger, April 3 at 2, London, div.—*Alfred Williams* and *Wm. M. Holland*, Duncan-street, Leman-street, Whitechapel, wholesale grocers, April 3 at half-past 11, London, div.—*Walter Robert Johnson* and *Edmund Gwyer* the younger, Adelaide-chambers, Gracechurch-street, City, merchants, April 3 at 11, London, div.—*Robert Gadsden*, Millwall, All Saints, Poplar, cement manufacturer, April 3 at 11, London, div.—*Robert Adkin*, Queen's-road, Notting-hill, Kensington, builder, April 3 at 1, London, div.—*John Peto* and *John Bryan*, Dacre-street, Westminster; Liverpool; and Willow-walk, Bermondsey, army contractors, April 3 at 2, London, div.—*J. J. Reynolds*, Threadneedle-st., City, share broker, April 4 at 11, London, div.—*E. Balding*, Speenhamland, Speen, Berkshire, builder, April 3 at half-past 1, London, div.—*Robert M'Burnie*, Wetherby, Yorkshire, grocer, April 3 at 11, Leeds, div.—*Thomas Rodger*, Attercliffe-cum-Darnall, Yorkshire, grocer, April 4 at 10, Sheffield, div.—*Matthew Smith*, Sheffield, steel manufacturer, April 4 at 10, Sheffield, div.—*Joseph Meeke*, Sheffield, draper, April 4 at 10, Sheffield, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Wren and *Edmund Wren*, Charlotte-mews, Fitzroy-square, iron bedstead manufacturers, April 4 at 11, London.—*John Murray*, Great Scotland-yard, St. Martin-in-the-Fields, coal merchant, April 3 at 12, London.—*Thomas Squire Lawrence*, Sutherland-street, Walworth, out of business, April 3 at 1, London.—*Joseph Harbut*, Portswood, South Stoneham, Southampton, licensed victualler, April 4 at 12, London.—*William Buckland*, Ealing, Middlesex, corn merchant, April 3 at 11, London.—*William Burrow Jones*, Bristol, pastrycook, April 20 at 11, Bristol.—*Edward Gee*, Blackrod, near Wigan, Lancashire, coal dealer, April 6 at 12, Manchester.—*Samuel Brear Sowden*, Leeds, Yorkshire, sharebroker, April 3 at 11, Leeds.—*William Williford*, Scarborough, Yorkshire, wine merchant, April 3 at 11, Leeds.—*Thomas Hardacre*, Settle, West Riding, Yorkshire, mercer, April 3 at 11, Leeds.—*John Houldsworth*, Sheffield, Yorkshire, builder, April 4 at 10, Sheffield.—*Charles Hammond Thompson*, Conisbrough, Yorkshire, common brewer, April 4 at 10, Sheffield.

To be granted, unless an Appeal be duly entered.

Francis Nicholls, Thornhill-crescent, Islington, merchant.—*Frederick Heighington Ward*, High-street, Whitechapel,

[*For continuation of Gazette, see p.* 111].

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THE JURIST.

LONDON, MARCH 21, 1857.

A POINT has lately been mooted to which we think it worth while to call attention, as it is one of importance to those concerned with the affairs of burial boards, and has not been the subject of judicial decision, viz. whether conveyances to burial boards of land purchased by them for the formation of burial grounds require to be inrolled in the manner prescribed by the act 9 Geo. 2, c. 36, commonly but inaccurately spoken of as the Mortmain Act.

We believe that it has not been the practice to inrol such conveyances, but there has lately been some difference of opinion on the question whether it is not necessary to do so; and it may not be useless to consider whether there is such reasonable ground for holding it necessary as to make it at all events desirable, as a measure of precaution, to inrol them in future.

The first question which arises is, whether such conveyances are conveyances "in trust or for the benefit of any charitable uses whatsoever," within the meaning of the statute in question. The extended meaning which has been given by the Courts to the word "charity" is well known, and it would be useless to enter into a citation of authorities on the point. Lord Camden in *Jones* v. *Williams* (Amb. 651) says, "Definition of charity—a gift to a general public use, which extends to the poor as well as to the rich." We think there is little doubt that if a person were to devise a piece of land to be used as a burial ground by all the inhabitants of a parish, this would be a devise to a charitable use, being a gift for the public benefit, and extending both to rich and poor. The *purpose* to which the land is dedicated is such as we think, upon the authorities, would make the gift charitable. There is, however, another point to be looked to—one to which it is not so often necessary to advert, and on which, therefore, there is great scarcity of authority. "I am of opinion," says Sir J. Leach in *The Attorney-General* v. *Heelis*, (2 Sim. & S. 77), "*that it is the source whence the funds are derived, and not the mere purpose to which they are dedicated, that constitutes the use charitable;* and that funds derived from the gift of the Crown or the gift of the Legislature, or from private gift, for paving, lighting, cleansing, and improving a town, are, within the equity of the statute of Elizabeth, charitable funds to be administered by this Court; but *where an act of Parliament passes for paving, lighting, cleansing, and improving a town, to be paid for wholly by rates or assessments to be levied upon the inhabitants of that town, the funds so raised, being in no sense derived from bounty or charity, in the most extensive use of that word, are not charitable funds to be administered by this Court.*" Now, in the case before us, the purpose is one which might point at the conveyance being one to a charity, but the funds are derived from the poor rates. The land purchased is "paid for wholly by rates levied upon the inhabitants of the parish:" the parish, in substance, buys the ground for its own use. If the ground were given, that might be a charity; but when it is purchased it may be considered as paid for by the persons who are to have the use of it; and this seems to exclude the idea of charity. Sir J. L. Knight Bruce, L. J., when Vice-Chancellor, is reported, in *The Attorney-*

General v. *Compton*, (1 Y. & C. C. C. 417, 424), to have said that *The Attorney-General* v. *Heelis* was on this point opposed to *The Attorney-General* v. *Brown*, (1 Swanst. 265). This, however, was a mere observation made during the argument: the judgment does not proceed upon it, or advert to it; and it was probably not intended as a deliberate expression of opinion. His Lordship has elsewhere said, (5 De G., Mac., & G. 501), that it is seldom useful to report such remarks, as they are generally made only for the purpose of directing the attention of counsel to particular views of the controversy; and we have no doubt that the remark in question was made solely with that view. We do not think that *The Attorney-General* v. *Heelis* was intended to be or is inconsistent, on this point, with *The Attorney-General* v. *Brown*, nor that the law as laid down by Sir J. Leach can be treated as having been impeached. (See *The Attorney-General* v. *The Mayor of Dublin*, 1 Bligh, N. S., 312, and *Nightingale* v. *Goulburn*, 5 Hare, 484, 488, for remarks on that case; and see for the general law on the subject, *The Attorney-General* v. *Gort*, 6 Dowl. 136; *The Attorney-General* v. *The Mayor of Carlisle*, 2 Sim. 437; *The Attorney-General* v. *The Corporation of Galway*, Beat. 304; and *The Attorney-General* v. *The Corporation of Shrewsbury*, 6 Beav. 220). The distinction in *The Attorney-General* v. *Heelis* seems founded on reason, and if it be law, we think that it cannot well be contended that a conveyance to a burial board of land which it purchases can be called a conveyance to a charitable use.

Supposing, however, that this view be incorrect, the question remains, whether the statutes from which burial boards derive their powers do not dispense with the inrolment. The only act which appears to have any material bearing on the question is the 15 & 16 Vict. c. 85, for regulating burials in the metropolis; as the 16 & 17 Vict. c. 134, which applies to burials in the country, does little more than extend the provisions of the former act to the country by reference.

The object of the 9 Geo. 2, c. 36, is to restrain conveyances and gifts to charitable purposes. It would seem to be an application of this act to cases not within its spirit to make it apply to purchases which the Legislature has by the burial acts directed to be made, and taken means to encourage and bring about. This might not of itself be conclusive, but, in construing the letter of a statute, it is by no means unimportant in any case to see what its spirit is; and in considering whether the provisions of a later statute are to be held, in matters directly within their scope, to supersede those of a former, it is equally material to take into account whether what the latter directs to be done is not thereby taken out of the spirit of the restrictive provisions of the former. The letter may be so expressed that the spirit cannot prevail against it; but if the letter be doubtful, the general object of the Legislature has a most important bearing in interpreting its language; and in the present case the à priori reasonableness and probability of the Legislature intending to exempt what in a particular case it requires to be done, from provisions designed to check the doing of it in general, must give greater weight to anything from which the expression of such intention may be gathered.

Now, the 25th section of the 15 & 16 Vict. c. 85, enacts, that "every burial board *shall*, with all convenient speed, proceed to provide a burial ground for the parish or parishes for which they are appointed to act, and to make arrangements for facilitating interments therein;" thus making it imperative on the board to provide a burial ground. To facilitate the doing this, the 27th section incorporates the greater part of the Lands Clauses Consolidation Act. Among the sections so incorporated is the 7th, which enlarges, in the most extensive manner, the powers of parties disposed to sell to "the promoters of the undertaking," i. e. to the board. It enables trustees, tenants for life, and others to sell and convey to the board, thus giving them a statutory power to sell what is not their own; and this section has received a liberal construction, for an instance of which see *In re The Cuckfield Burial Board*, (18 Beav. 153). It would be a singular state of things if these extraordinary statutory powers to convey to a particular class of charitable bodies should be held subject to a restriction on the right to convey to charity generally. But the matter does not rest here. The 81st section, which is also incorporated in the Burial Act, enacts, that "conveyances of lands to be purchased under the provisions of this or the special act, or any act incorporated therewith, may be according to the forms in the Schedules (A.) and (B.) respectively to this act annexed, or as near thereto as the circumstances of the case will admit, or by deed in any other form which the promoters of the undertaking may think fit; and all conveyances made according to the forms in the said schedules, or as near thereto as the circumstances of the case will admit, shall be effectual to vest the lands thereby conveyed in the promoters of the undertaking;" and it then goes on to provide, that such conveyances shall have certain further effects beyond those attending an ordinary conveyance. Now, the form of conveyance which the Legislature declares shall effectually vest the land in the board will be found, on referring to the Schedules (A.) and (B.), to be a deed-poll; but stat. 9 Geo. 2, c. 36, requires that conveyances to charities shall be "by deed indented." It is therefore impossible to make the two acts completely work together. The Legislature has provided, in express terms, that a burial board may take land by a deed of a certain description, which does not comply with the requisitions of the 9 Geo. 2, c. 36. It would be absurd to say that it is requisite to inrol these deeds-poll under that statute; for, as they are not indentures, they would not satisfy its provisions if they were inrolled; and there is no trace of intention that they should be. Had the act intended them to be in any way inrolled, it would no doubt have said so; and in the case of copyhold lands it has so done. Now, the Legislature does not require any particular formalities to be observed as to these deeds-poll; nothing is prescribed as to them which can be supposed to be intended as a substitute for inrolment; and it would be difficult to hold, that if the board take a conveyance by deed-poll, they need not inrol it, but that if they take one by indenture, it must be inrolled. We think, therefore, that the intention of the Legislature, that conveyances to burial boards on sales to them should not require inrolment, is sufficiently expressed.

The cases of *Mogg* v. *Hodges* (2 Ves. sen. 52) and *The British Museum* v. *White* (2 Sim. & S. 595) have been referred to as decisive in support of the contrary view, but we do not think that they are so. The special acts in those cases appear to have been merely intended to take away the disability of a corporation to hold land without a license in mortmain, and not to have been directed at exempting other parties from their inability to give land to it, except in a particular way. Those cases turned on gifts by will, and we do not mean to lay down that a gift by will to a burial board would be good. It might, perhaps, be held that it is so, on the principle of *The Attorney-General* v. *The Haberdashers' Company*, (1 My. & K. 420); but whether that be so or not, a gift by will, or a voluntary gift by deed, stands on a materially different footing from a sale. The fund out of which the burial ground is to be purchased not being a charitable fund, (*The Attorney-General* v. *Heelis*), if the board buys for value there is no charity in the case; but if a free gift is made, bounty is for the first time introduced, and it is by no means clear that the gift is not charitable.

We may add, that the question has lately been before a conveyancer of the very highest eminence, and that he gave an opinion, founded on reasons substantially identical with the above, to the effect that inrolment was not necessary.

◆

EVERYTHING connected with the subject of patents seems to wear an aspect of perplexity and confusion. Even the statutes relating to it appear to have been drawn with, if possible, less than usual attention to the proper use of words, and the grammatical construction of sentences. Of this the case of *In re Macintosh's Patent*, (2 Jur., N. S., part 1, p. 1242), which lately came before the Lord Chancellor, furnishes an interesting example. That case, as reported in our columns, is briefly as follows:—On the 6th August, 1855, one John Macintosh, an applicant for letters-patent for an invention "of certain improvements in the application of incendiary materials to be used in warfare," delivered his petition, declaration, and provisional specification at the office of the Commissioners of Patents, and on the same day procured a certificate that provisional protection had been allowed. The Solicitor-General's warrant for sealing the letters-patent was signed on the 18th December, 1855, and on the same day objections to the sealing were lodged by the solicitor to the Ordnance, the purport of which objections was, that such an invention as the applicant's could only be used in time of war, and that the publication of it might be prejudicial to her Majesty's service. On the 5th May, 1856, peace having intervened, the objections were withdrawn. On the 22nd November, 1856, the applicant presented a petition for the sealing of the letters-patent; but the Lord Chancellor, on the ground that no reason was stated why the application was not made on or immediately after the 5th May, 1856, refused the order prayed. The petition, which was the subject of the present case, was then presented, stating that the petitioner was desired by the Secretary of State for War, during the period between the 5th May and the 17th November, 1856, to delay taking the necessary steps to procure the sealing of the said letters-patent, but that on the 17th November the direction of the Secretary of State for War was withdrawn, and praying that the letters-patent might be forthwith sealed, and for time to deposit the specification.

The 19th section of the Patent-law Amendment Act, 1852, (15 & 16 Vict. c. 83), provides, "that no letters-patent, save &c. in the case of letters-patent destroyed or lost, shall issue on any warrant, &c., unless application be made to seal such letters-patent within three months after the date of the said warrant." In this case the first application to seal was not made until eleven months had elapsed since the date of the warrant. The 20th section of the Patent-law Amendment Act provides, "that no letters-patent (save letters-patent issued in lieu of others destroyed or lost) shall be issued, or be of any force or effect, unless the same be granted during the continuance of the provisional protection under this act, or where a complete specification has been deposited &c.; *save that where the application to seal such letters-patent has been made during the continuance of such provisional or other protection, &c., and the sealing of such letters-patent has been delayed by reason of a caveat, or an application to the Lord Chancellor against or in relation to the sealing of such letters-patent, then such letters-patent may be sealed at such time as the Lord Chancellor shall direct.*" In this case the letters-patent were not granted during the continuance of the protection. Neither did this case fall strictly within the exception in the 20th section; for no application was made to seal the letters-patent during the continuance of the provisional protection, which lasts only for six months from the date of the application for letters-patent. So far, however, as it was necessary, in order to bring this case within that exception, that the delay in sealing should have been caused by the caveat, the provision to that effect in the 20th section may, perhaps, be considered to have been complied with; for from the 18th December, 1855, to the 5th May, 1856, the sealing may fairly be said to have been delayed by the caveat, inasmuch as it was in consequence of the caveat that the application to seal was postponed; although after the 5th May the delay arose from a different cause. Probably the Legislature did not intend, that when the delay in sealing has been caused for a time by the entry of a caveat, but prolonged for a different reason, the Lord Chancellor should have authority to direct the sealing at any time; but meant, that, if the provisional protection had expired, the sealing should take place as soon as it reasonably might after the withdrawal of the caveat, without regard to any other cause of delay. Still a literal interpretation of the words of this clause only would enable the Lord Chancellor, where the delay in sealing letters-patent has been *originally* caused by a caveat, to direct them to be sealed at any time, provided the other requisites have been complied with; and under the peculiar circumstances of this case, it was natural, though perhaps not quite prudent, for the judge to prefer the literal interpretation, which would help the petitioner, to the probable intention of the act, which might have inflicted a great hardship upon him. Accordingly we find that his Lordship made an order directing the letters-patent to be sealed at once, and the specification to be lodged within a month; notwithstanding that the delay, of which the caveat was the origin, had been extended by another circumstance, not apparently within the contemplation of the Legislature when the act was passed. But the obstacle which, by thus adhering to the strict letter of the statute, the Lord Chancellor was enabled to avoid, was not the only one which opposed itself to the making of the above order; and his Lordship, when he granted this relief, involved himself in other difficulties, which it required other means to encounter and overcome; for by no literal interpretation could he escape the provision of sect. 20, which requires, that in the exceptional case the application to seal the letters-patent should have been made during the continuance of the protection; nor that in sect. 19, which requires that the application to seal must be made within three months after the date of the warrant. With respect to these provisions, however, his Lordship appears to have considered, (so far, at least, as can be collected from the whole report, for the Lord Chancellor himself gave no account of his reasons)—first, that the 19th and 20th sections must be construed together, and that in cases which, but for the 19th section, would be exceptional under the 20th, the 20th section must be taken to override and virtually to repeal the 19th; secondly, that where *the application to seal* has itself been delayed by the entry of a caveat, that part of the clause in the 20th section, which requires that in the exceptional case the application to seal the letters-patent must have been made during the continuance of the protection, could not have been intended to apply. This seems a liberal construction of the act, following not the words, but the object and intention of the Legislature; because the application to seal may just as easily be delayed by the entry of a caveat as the sealing itself, since it would be useless to apply to seal where the sealing would evidently not be ordered; and it is, therefore, just as right that relief should be given in the one case as the other. At the same time his Lordship's decision is open to this objection, that in construing the act he partly regarded the words at the expense of the intention, and partly the intention at the expense of the words; and if acts of Parliament are to be so construed by the Court, it will be exceedingly difficult for counsel to know by what rule of interpretation they are to be guided, when they have to advise their clients.

But there is a clause in another act of Parliament which does not appear to have been noticed by the Lord Chancellor, and with respect to which his Lordship's silence becomes in some sort an interpretation. We allude to the 6th section of the 16 & 17 Vict. c. 115, an act which was passed before this case arose. That section says—"Where letters-patent have not been sealed during the continuance of the provisional protection on which the same is granted, provided the delay in such sealing has arisen from accident, and not from the neglect or wilful default of the applicant, it shall be lawful for the Lord Chancellor, if he shall think fit, to seal such letters-patent at any time after the expiration of such provisional protection, whether such expiration has happened before or shall happen after the passing of this act, and to date the sealing thereof as of any day before the expiration of such provisional protection, and also to extend the time for the filing of the specification thereon; and where the specification, in pursuance of the condition of any letters-patent, has not been filed within the time limited by such letters-patent, provided the delay in such filing has arisen from accident, and not from the neglect or wilful default of the patentee, it shall be lawful for the Lord Chancellor, if he shall think fit, to extend the time for the filing of such specification, whether the default in such filing has happened before or shall happen after the passing of this act: provided always, that, except in any case that may have arisen before the passing of this act, it shall not be lawful for the Lord Chancellor to extend the time for the sealing of any letters-patent, or for the filing of any specification, beyond the period of one month." The first part of this clause makes it lawful for the Lord Chancellor to seal letters-patent after the expiration of the provisional protection, where the delay in sealing has arisen from accident, and is confined to those cases. But the proviso in the latter part of the clause is more general in its terms, and, as it appears to us, might be fairly argued to prohibit his Lordship from extending the time for the sealing of *any* letters-patent in any case whatever, or for the filing of any specification, beyond the period of one month; that is, clearly, one month from the expiration of the protection where the time for sealing is extended, and one month from the time limited by the letters-patent where the time for filing the specification is extended. In support of this construction it must be remembered that this statute (16 & 17 Vict. c. 115) was designed to amend the Patent-law Amendment Act, 1852; and that the two statutes are to be construed together as one act. If, then, we read the 6th section of the 16 & 17 Vict. c. 115, in conjunction with the analogous sections of the Patent-law Amendment Act which we have already quoted, we find that by that 6th section an extension of the time for sealing letters-patent is permitted in another instance not contemplated by the Patent-law Amendment Act, viz. where the delay has arisen from accident, as well as where it has been occasioned by the entry of a caveat; but that in *all* cases a limit is set, beyond which the time for sealing may not be extended. This view is further confirmed by the absence of any limit to the extension of the time for sealing in the exceptional case provided for by the 20th section—a defect which the amending act seems intended to supply; and we are the more strongly led to this conclusion when we see that the limit prescribed by the 19th section of the Patent-law Amendment Act may reasonably be held, and was in fact in the matter of this very petition held, not to apply to cases falling within the exception in the 20th section of that act. But further, what is the precise meaning of the word "accident" in this place? It seems to be contrasted with and explained by the words "neglect or wilful default of the patentee;" and upon this supposition (which is quite in accordance with a method of construction very commonly adopted—that, namely, of defining a doubtful word by its opposite, when both occur in the same sentence) the word "accident" would signify any circumstance, besides the entry of a caveat or an application to the Lord Chancellor against or in respect of the letters-patent, which could not be considered neglect or wilful default on the part of the patentee. But if so, was the sealing in this case in any way delayed by neglect or wilful default on his part? If it was, that surely would have been a just ground for refusing him any indulgence, or at least for declining to strain the sense of the statute in his favour. If it was not so delayed, then the Lord Chancellor, according to the suggested interpretation of the act, would have been expressly prohibited from sealing the letters-patent at any time beyond the period of one month after the expiration of the provisional protection. His Lordship's order, then, if correct, seems to establish this proposition, with reference to the interpretation of the 6th section of the 16 & 17 Vict. c. 115. The prohibition in that section, from extending the time for the sealing of *any* letters-patent beyond the period of one month, only applies to cases where the delay has arisen from accident; and the word "accident" is not so extensive in its signification as to include every circumstance which cannot be imputed as neglect or wilful default to the patentee.

But whatever may be the true construction of these several sections, that construction is, we think, sufficiently doubtful to justify us in advising the applicant for letters-patent, who desires to get them sealed after the expiration of his protection, not to rely too much upon the recent favourable decision of the Lord Chancellor, but to comply with the requisitions of the statutes as far as he possibly can, according to the most stringent interpretation which the words will bear.

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TUESDAY, *March* 17.

BANKRUPTS.

JAMES CURTIS, Gresham, Norfolk, tailor, March 27 and May 1 at half-past 1, London: Off. Ass. Whitmore; Sols. Atkinson, Norwich; Lawrance & Co., 14, Old Jewry-chambers, London.—Pet. f. March 11.

WILLIAM TILBURY, Great Titchfield-street, Marylebone, and Cleveland-mews, Fitzroy-square, brass worker, March 27 and May 1 at 12, London: Off. Ass. Cannan; Sol. Atkinson, 51, Bedford-row.—Pet. f. March 13.

JOHN NORTON, Norwich, corn merchant, March 24 at 11, and April 23 at 1, London: Off. Ass. Bell; Sols. Jay & Pilgrim, Norwich; Jay, Bucklersbury, London.—Pet. f. March 12.

LIONEL CREASY and JOHN JACKSON CREASY, Turnham-green, Middlesex, butchers, April 1 at 2, and April 28 at 1, London: Off. Ass. Graham; Sols. Smith & Son, 6, Barnard's-inn, Holborn.—Pet. f. March 14.

THOMAS CHARLES MEDWIN and CRESSWELL HALL, Blackfriars-road, Surrey, engineers, (trading under the style or firm of Medwin & Hall), March 31 at half-past 1, and April 28 at 12, London: Off. Ass. Stansfeld; Sol. Carr, 36, St. Mary-at-Hill.—Pet. f. March 12.

JAMES STEEN HARVEY, Birmingham, grocer, March 28 and April 17 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Southall & Nelson, Birmingham.—Pet. f. March 12.

JOHN COLEMAN, Wolverhampton, Staffordshire, and Coventry, Warwickshire, theatrical bookseller, April 1 and 20 at half-past 10, Birmingham: Off. Ass. Bittleston; Sols. Dewes, Coventry; Knight, Birmingham.—Pet. d. March 14.

WILLIAM SMITH, Nottingham, grocer, March 31 and April 28 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Knight, Birmingham.—Pet. d. March 6.

THOMAS SMITH, Nottingham, licensed victualler, March 31 and April 28 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Smith, Nottingham.—Pet. d. March 12.

THOMAS JOHN CRESWICK, Sheffield, Yorkshire, electro-plated goods manufacturer, March 28 and April 25 at 10, Sheffield: Off. Ass. Brewin; Sol. Fretson, Sheffield.—Pet. d. March 12.

THOMAS HIPKISS, Sheffield, Yorkshire, scale cutter, March 28 and April 25 at 10, Sheffield: Off. Ass. Brewin; Sols. Branson & Son, Sheffield.—Pet. d. March 7.

MEETINGS.

Edwin Etherington, Godalming and Aldershott, Surrey, grocer, March 30 at half-past 12, London, last ex.—*Richard Griffith* the elder and *Richard Griffith* the younger, Hatton-wall, and St. James's-walk, Clerkenwell, brassfounders, March 31 at 12, London, last ex.; April 7 at 11, div.—*W. R. Johnson* and *E. Gwyer*, Adelaide-chambers, Gracechurch-street, City, merchants, March 27 at half-past 11, London, aud. ac.—*Wm. Francis Schmollinger*, Gracechurch-st., tavern keeper, March 27 at 11, London, aud. ac.—*F. H. Thomson*, Berners-street, Oxford-st., and West-end; Hampstead, manufacturer of silvered glass ware, March 27 at half-past 11, London, aud. ac—*Geo. Groom*, Norwich, shoe factor, April 9 at 11, London, aud. ac.—*Jas. Davies*, Newport, Monmouthshire, currier, April 16 at 11, Bristol, aud. ac.; April 23 at 11, div.—*Joseph Van Raalte* the younger, Gloucester-terrace, St. John's-road, Hoxton, importer of French goods, April 7 at 11, London, div.—*Edgar Adams*, Brighton, laceman, April 7 at 1, London, div.—*Alfred Charles Ayres*, Ramsgate, Kent, surgeon, April 7 at half-past 1, London, div.—*Alfred Page*, Baker-street, Portman-square, shoe manufacturer, April 7 at half-past 11, London, div.—*H. Wilson* the younger, Old-street-road, currier, April 7 at 2, London, div.—*Charles John Mare*, Orchard-yard, Blackwall, ship builder, April 23 at half-past 11, London, div.—*John Allen* and *Joseph Moore*, Birmingham, die sinkers, April 16 at 10, Birmingham, div.—*Frederick Cook*, Oldham, Lancashire, machine maker, April 7 at 12, Manchester, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Wm. Woods, Union-street, Southwark, hook-and-eye manufacturer, April 8 at half-past 12, London.—*John Kingsford Inge*, Littlebourne, Kent, brewer, April 8 at 2, London.—*John Henry Stevens*, Great Wild-street, Lincoln's-inn-fields, engraver, April 8 at 12, London.—*Richard Davies*, Cardiff, Glamorganshire, shipbroker, April 21 at 11, Bristol.—*Joseph Leeming* the younger, Hartlepool, Durham, whitesmith, April 8 at half-past 11, Newcastle-upon-Tyne.—*James Schofield*, Ashton-under-Lyne, Lancashire, tailor, April 7 at 12, Manchester.—*Henry Taylor* and *Henry Hoyle*, Vale Mill, near Bacup, and Manchester, Lancashire, cotton spinners, April 7 at 12, Manchester.—*Wm. Hughes*, Liverpool, joiner, April 9 at 11, Liverpool.

To be granted, unless an appeal be duly entered.

Thomas Watson, Artillery-place, Finsbury-square, mining agent.—*Samuel Biggin* the younger, Sheffield, saw manufacturer.—*Godfrey Gregory Pike*, Birmingham, grocer.

PARTNERSHIP DISSOLVED.

Robert Humphreys Jones and *Thomas Rymer*, Wrexham, Denbighshire, attornies-at-law and solicitors.

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COMMISSIONERS TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed the following gentlemen to be commissioners to administer oaths in the High Court of Chancery in England:—William Hope Mitchell, of Tarporley, Cheshire; Peter Bartholomew Long, of Ipswich, Suffolk; Frederick William Tweed, of Horncastle, Lincolnshire.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed Charles Burton Daveney, Gent., of Norwich, to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, in and for the city of Norwich and county of the same city, also in and for the county of Norfolk.

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No. 116, NEW SERIES.—Vol. III.
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GAZETTES.—Friday, *March* 20.

Bankrupts.

JOHN HUNTER, Nottingham-place, Stepney, draper, April 2 and May 7 at 12, London: Off. Ass. Bell; Sols. Bennett & Paul, 1, Sise-lane.—Pet. f. March 11.

CHARLES HIGGINS, Salisbury, Wiltshire, brewer, March 31 at 11, and April 30 at 1, London: Off. Ass. Johnson; Sols. Hoddings & Co., Salisbury; Clarke & Morrice, Coleman-street, London.—Pet. f. March 18.

TILDEN CHRISMAS, Chatham and Sheerness, Kent, coal merchant, March 30 at half-past 11, and April 30 at 2, London: Off. Ass. Johnson; Sol. Selby, 15, Coleman-street, London.—Pet. f. March 18.

JOHN WILLDING CLARKE, late of Sidcup, Kent, but now of Whittlesea, Isle of Ely, Cambridgeshire, seed merchant, April 2 at 1, and May 1 at 2, London: Off. Ass. Whitmore; Sol. Carr, 36, St. Mary-at-Hill, London.—Pet. f. March 17.

SAMUEL COULDREY, Flower's-wharf, Stainsley-road, Limehouse, lime merchant, April 2 at half-past 1, and May 1 at half-past 11, London: Off. Ass. Cannan; Sol. Chidley, 10, Basinghall-street.—Pet. f. March 19.

ALBERT WILLIAM HOWARD, New Church-street, Bermondsey, Surrey, and Pudding-lane, City, timber merchant, April 3 at 11, and May 13 at 12, London: Off. Ass. Nicholson; Sol. Keighley, 73, Basinghall-street.—Pet. f. March 19.

GEORGE CONSTANTIN FRANGHIADI, Old Broad-street, City, merchant, (trading under the style or firm of C. Franghiadi, Sons), April 1 at 1, and May 6 at 11, London: Off. Ass. Pennell; Sol. Abrahams, 23, Southampton-buildings.—Pet. f. March 14.

JOHN SAMUEL GRIEVES, Greystoke-place, Fetter-lane, and Red Lion-court, Fleet-street, printer, April 1 and 29 at 12, London: Off. Ass. Stansfeld; Sol. Marshall, Sion College-gardens, City.—Pet. f. March 12.

HENRY MARLOW, Walsall, Staffordshire, ironfounder, April 1 and 20 at 10, Birmingham: Off. Ass. Bittleston; Sols. Duignan & Hemmant, Walsall.—Pet. d. March 18.

EVAN LEWIS, Cymmer, Llantrissant, Glamorganshire, victualler, March 31 and April 28 at 11, Bristol: Off. Ass. Acraman; Sol. Cartwright, Bristol.—Pet. f. March 9.

GEORGE GOODWIN, Manchester, woollen merchant, April 9 and 30 at 1, Manchester: Off. Ass. Hernaman; Sol. Stead, Manchester.—Pet. f. March 17.

JOHN WRIGGLESWORTH, Halifax, Yorkshire, linen-draper, March 30 at half-past 11, and April 27 at 12, Leeds: Off. Ass. Hope; Sols. Edwards, Halifax; Bond & Barwick, Leeds.—Pet. d. March 18.

Meetings.

John Poland, Broadway, Ludgate-hill, furrier, April 9 at 12, London, last ex.—*John Poland*, Hart-street, Bloomsbury, and Mount-street, Whitechapel-road, wholesale milliner, April 9 at 12, London, last ex.—*Charles Henry Davis*, New Cross-road, Deptford, Kent, builder, March 31 at 1, London, last ex.—*Francis Selfe*, Sheerness, Kent, watchmaker, April 1 at 12, London, last ex.—*Andrew Phillips*, Cambridge, licensed victualler, April 7 at half-past 11, London, aud. ac.—*Henry Osborn*, Water-lane, City, and Great Windmill-street, Haymarket, wine merchant, April 2 at 2, London, aud. ac.—*Thomas Cook*, Thorpe-le-Soken, Essex, shoemaker, April 7 at 11, London, aud. ac.—*William Burch*, Back-hill, Hatton-garden, boot-tree maker, April 1 at half-past 12, London, aud. ac.—*Richard Cowper Steele*, Fenchurch-street, merchant, April 1 at 12, London, aud. ac.—*Robert Adkin*, Queen's-road, Notting-hill, Kensington, builder, April 2 at 12, London, aud. ac.—*John Peto* and *John Bryan*, Dacre-street, Westminster, and Liverpool, and Willow-walk, Bermondsey, army contractors, April 2 at 12, London, aud. ac.—*Joseph James Reynolds*, Threadneedle-street, City, sharebroker, April 2 at 11, London, aud. ac.—*Alfred Williams* and *William Major Holland*, Duncan-street, Lemon-street, Whitechapel, wholesale grocers, April 2 at 12, London, aud. ac.—*Edward Balding*, Speenhamland, Speen, Berkshire, builder, April 2 at 11, London, aud. ac.—*Robert Gadsden*, Millwall, Poplar, cement manufacturer, April 2 at 12, London, aud. ac.—*Henry Jewell*, High-street, Shadwell, and St. George's-street East, clothier, April 2 at 12, London, aud. ac.—*Charles Ashfield*, Home-terrace, Hammersmith, shoemaker, April 2 at 12, London, aud. ac.—*Joseph Walters*, Northampton, hatter, April 2 at 12, London, aud. ac.—*James Henry Smith*, Oxford-street, and Connaught-terrace, Hyde-park, corset maker, April 4 at 11, London, aud. ac.—*John White*, Northampton, draper, April 4 at 12, London, aud. ac.—*Henry Foulkes*, Manchester, grocer, March 30 at 12, Manchester, aud. ac.—*Robert M'Burnie*, Wetherby, Yorkshire, grocer, April 3 at 11, Leeds, aud. ac.—*Nathaniel Elliott*, Manchester, dealer in cigars, April 23 at 12, Manchester, aud. ac.; April 30 at 12, div.—*John Berry*, *Richard Berry*, and *Thomas Berry*, Rochdale, ironfounders, April 23 at 1, Manchester, aud. ac.; April 30 at 1, div.—*John Johnson*, Bourn, Lincolnshire, ironmonger, April 28 at half-past 10, Nottingham, div.—*Baxton Kenrick*, Frampton, Lincolnshire, shipowner, April 28 at half-past 10, Nottingham, div.—*Thomas Freer*, Leicester, wine merchant, April 28 at half-past 10, Nottingham, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Samuel Baker, Birmingham, ironfounder, April 23 at half-past 10, Birmingham.

To be granted, unless an Appeal be duly entered.

Robert H. Adamson, John-street, Berkeley-square, wine merchant.—*Benjamin Callaway*, Southsea, Portsea, Southampton, builder.—*Alfred C. Ayres*, Ramsgate, surgeon.—*Charles D. Hope*, Great Marlborough-street; Regent-street; and Lansdowne-road North, Notting-hill, publisher.—*Henry Mopsey*, Castle-street, Falcon-square, ironmonger.—*Jonas C. H. Freund*, West-street, Finsbury, boarding-house keeper.—*George Danby*, Watford, Hertfordshire, wine merchant.—*J. Alltree*, Liverpool, tailor.—*John Unwin*, Seacombe, Cheshire, baker.—*John Berry*, Rochdale, ironfounder.

Petition Annulled.

Henry Denison, Liverpool, money scrivener.

Scotch Sequestrations.

Peter Gallacher, Glasgow, grocer.—*Alexander Macdonald*, Portree, merchant.

Tuesday, *March* 24.

Bankrupts.

FRANK RENNISON, Milk-street, Cheapside, City, merchant, (carrying on business under the style or firm of F. Rennison & Co.; also carrying on the business of a day school at Matson-terrace, Kingsland-road), April 7 at 2, and May 5 at 12, London: Off. Ass. Stansfeld; Sol. Moss, 23, Moorgate-street, City.—Pet. f. March 20.

ROBERT COLLENS, High Holborn, Middlesex, and Talbot-inn-yard, High-street, Borough, Surrey, licensed victualler, April 3 at half-past 2, and April 28 at 12, London: Off. Ass. Edwards; Sols. King & George, 35, King-street, Cheapside.—Pet. f. March 21.

EDWARD CLARK LONE, Cullum-street, City, drug merchant, April 2 at 2, and May 8 at 1, London: Off. Ass. Whitmore; Sols. King & George, 35, King-street, Cheapside.—Pet. f. March 23.

EDWARD GRAY BROCKLEHURST, Liverpool, hose manufacturer, April 3 and 24 at 11, Liverpool: Off. Ass. Turner; Sol. Tyrer, Liverpool.—Pet. f. March 9.

WILLIAM POPHAM DAVIS and JAMES DAVIS, Cardiff, Glamorganshire, slate merchants, (trading under the style or firm of Davis, Brothers), April 6 and May 5 at 11, Bristol: Off. Ass. Miller; Sols. Lovibond, Bridgewater, Somersetshire; Bevan & Girling, Bristol.—Pet. f. March 9.

GEORGE DAVY RICHARDSON, Carlisle, Cumberland, ironfounder, March 31 at 11, and May 8 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Wright, Carlisle: Hoyle, Newcastle-upon-Tyne; Gray & Co., Staples-inn.—Pet. f. March 17.

THOMAS ATKINSON, Brearley, near Luddenden Foot, Yorkshire, woollen manufacturer, April 3 and May 1 at 11, Leeds: Off. Ass. Young; Sols. Holroyde & Co., Halifax; Bond & Barwick, Leeds.—Pet. d. and f. March 14.

SAMUEL ATACK, Leeds, builder, April 3 and May 1 at 11, Leeds: Off. Ass. Young; Sols. Dibb & Co., Leeds.—Pet. d. and f. March 14.

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THE JURIST.

LONDON, MARCH 28, 1857.

The tendency of our judges at the present day is to allow contracting parties to make contracts for themselves, instead of making contracts for them; or, in other words, putting a construction upon them which the parties neither intended nor expressed. Hence "judge-made" contracts have now become as rare as judge-made law. There have been times when plain Mr. A. and plain Mr. B. could not enter into a short agreement at the Exchange or in the market without its being subject to astute perversion in the courts. To their surprise they would find that they had said all sorts of things which had never entered into their innocent heads, and that they had made a most subtle contract, with conditions precedent, concurrent, and subsequent; with dependent, independent, and collateral stipulations; that numerous Latin maxims could be brought to bear upon it; that there was not only patent, but latent ambiguity; that a crowd of words very different in sound and ordinary meaning were yet ejusdem generis; and that the sum of money which they mutually imposed for a breach of the contract, and expressly declared should be "liquidated damages," was only a penalty. Many of these legal incidents, no doubt, often produced a just and reasonable result, and are applied to contracts made at the present time; but more liberal principles of construction are adopted, and greater effect is given to the real intention of the parties. An illustration is afforded by the late case of *Reynolds* v. *Bridge*, (2 Jur., N. S., part 1, p. 1164; 26 L. J., Q. B., 12), in which the oft-mooted distinction between a penalty and liquidated damages was again discussed. The plaintiff, who was a surgeon at Wellington, in the county of Somerset, had taken the defendant into partnership for three years, and the deed of partnership contained a covenant that after the determination of the three years the defendant should not practise as a surgeon or apothecary, or see any patients, (except as therein mentioned), or assist or introduce any other medical man in Wellington, but should before the expiration of the three years introduce the plaintiff to the exclusive patients of the defendant, and should also use his best endeavours to secure the same for the plaintiff after the three years; and it was expressly declared and agreed that if the defendant made default in the performance of such covenant, he should forthwith pay to the plaintiff the sum of 2000*l.*, "not in the nature of a penalty, but as ascertained liquidated damages." An action was brought for a breach of the covenant in its terms, and the Court held that the sum of 2000*l.* was to be taken as liquidated damages. Erle, J., in delivering his judgment, said, "The nature of the contract is such that the damage resulting from the breach of the stipulations is uncertain. If the defendant, being in a well-favoured practice, covenants that he will not practise within certain limits, and he breaks that covenant in one or two instances only, it is impossible to calculate exactly the amount of the damages arising from such breaches: the plaintiff might be thereby prevented from attending a particular case, or from getting into a valuable line of practice; and so it might be the loss of a fortune, or it might be only the loss of the amount of the particular bill. It has been laid down as a rule of law, that in some cases a stipulation for payment of a fixed sum as liquidated damages counts for nothing, and in effect the parties have put into their deeds words without any meaning. In the case of a common bond given on a loan of money, in very early times, relief was given to the obligor, who could indemnify the obligee by payment of the principal; and the Courts have extended the same rule to covenants, where the damages stipulated for breaches of the covenant were very large in amount, and have held that the parties only intended that the sum really due should be recovered. *But the tenor of the latter decisions is to restrict the operation of that principle, because it militates against another great and governing principle of law, that parties may make what contracts they please within the limits of the law, and that such contracts shall be carried into effect by the Courts according to the intention of the parties, which is to be learnt from the words in the contract itself.* In some cases a large exercise of discretion has been assumed by the Courts, and without taking the words used by the parties, the whole instrument has been looked to, and effect given to it according to what was considered to have been a reasonable contract for the parties to enter into. But if we take away the right of the complaining party to receive the damages which have been agreed upon, the party complained of may be liable to pay, not the extent of damages, which was limited according to his means, but an amount far exceeding that."

And with regard to the main question in the case, Coleridge, J., said, "The principle which the cases have established, without any great discrepancy, though there is not entire conformity as to whether the sum agreed upon is to be considered as liquidated damages or a penalty, is to ascertain what was the real intention of the parties; and the other rules which have been laid down are only to assist us in ascertaining that intention. . . . . The principle to be deduced from all the decisions is, that if the covenant relates to matters which are not of an uncertain nature and amount, as where the covenant is for the payment of a smaller sum, and the damages named in the deed are a much larger sum, the sum stated is to be regarded as a penalty." Crompton, J., said, "It is not necessary to say how far we abide by the decision in *Kemble* v. *Farren*, (6 Bing. 140), because we have the strong and direct authority of *Atkyns* v. *Kinnier* (4 Exch. 776) upon the construction of the main covenant in this case." (See also *Sainter* v. *Ferguson*, 7 C. B. 716).

The judgment in this case justifies, we think, the following deductions:—

1. In deciding whether a sum to be paid, in the event of a breach of contract, is to be considered as in the nature of a penalty or as liquidated damages, the real intention of the parties is to be ascertained, and that from the words in the contract itself. Other rules upon the subject are only to assist the Courts in ascertaining such intention.

2. The fact that the sum is large, and exaggerated in amount, does not of itself shew that it is to be considered as a penalty.

3. The fact that more than one thing is to be done or forborne does not determine the question.

4. If the covenant relates to matters which are not of an uncertain nature and amount, e. g. for payment of a smaller sum, and the damages named in the deed are a much larger sum, it is to be regarded as a penalty.

5. And it seems that if *some* of the stipulations are of a certain nature and amount, and some are of an uncertain nature and amount, as the sum cannot be treated as liquidated damages in respect of one or more of the stipulations, it ought not to be so treated in respect of the others. (Per Coleridge, J.) See *Galsworthy* v. *Strutt*, (1 Exch. 659).

6. If the parties intended that there should be a penalty recoverable over and over again for every breach of the covenant, and not that, in case of a single breach, the entire contract should be at an end, and the sum paid for the loss of the whole matter, it will in general be a penalty. (Per Crompton, J.)

7. If there be a contract containing stipulations, the breach of which cannot be measured in damages, the parties must be taken to have meant that the sum agreed on for its non-performance was to be liquidated damages.

Correspondence.

RE RACE.

TO THE EDITOR OF "THE JURIST."

SIR,—I inclose the "Monthly Letter" of "The Protestant Alliance," No. 30. You will see that it contains a statement that "the girl Alicia Race has been confided to Protestant guardians by the Court of Chancery, on proof that her mother was an unfit guardian, having married again during the lifetime of her first husband." If this statement is correct, it would seem to dispose of the question recently discussed in your columns, (ante, pp. 77, 87, 92), as to the grounds on which the Vice-Chancellor proceeded in *Re Race*. But the statement of "The Protestant Alliance" is not very consistent with the assertion of your correspondent, (ante, p. 79), "that there was some attempt to impeach the character of the mother, but we understand the affidavits on that head were taken off the file." And it would appear a somewhat curious doctrine to hold that the question, whether a ward of Court should be brought up in one religion or another, should depend on the fact of the guardian being or not being guilty of criminal conduct. Many persons must be acquainted with the real facts of this interesting case; and as, since the publication of the "Monthly Letter" of "The Protestant Alliance," no motives of delicacy can interfere with the statement of the truth, I hope the real facts of the case may be made known to your readers.

Your obedient servant,

Lincoln's Inn, March 21, 1857. W.

THE VERULAM SOCIETY.—This society has been instituted by articled clerks and other law students, for the purpose of affording means whereby they can meet and associate for the purpose of promoting their professional knowledge, and of insuring, as far as they can, the honourable passing by them of their examinations at the Incorporated Law Society. With this view the society proposes to hold meetings of its members on an enlarged and liberal scale, under the presidency of a competent chairman, for the weekly discussion of moot points of law, and also to form term classes for evening study and examination, under a duly qualified principal. The honorary secretary is Mr. Thomas Francis Peacock, of No. 10, South-square, Gray's Inn.

Review.

A Letter to the Right Hon. the Lord Campbell, proposing Alterations in the holding of Assizes and Sessions, and regulating generally the Sittings of the Courts of Common Law both in and out of Term. By William Adam Mundell, *Barrister at Law. Pp.* 23.
[*Wildy & Sons*, 1857.]

This pamphlet, which owes its birth to the appointment of the commission for considering (inter alia) the present constitution of circuits, contains sensible suggestions upon that subject, and also upon Nisi Prius Sittings in London and Middlesex.

"The circuits in England," says its author, "have remained pretty much the same since the reign of Henry III; the terms, although somewhat modified by statute, (11 Geo. 4 & 1 Will. 4, c. 70), were in their inception subservient to the feasts of the Church; while the length of the Long Vacation was engendered by the necessities of a people who, engaged for the most part in husbandry of a primitive kind, were during this prolonged period unable to leave the harvest and the subsequent preparation of their winter food to attend the courts. When these things had their rise, the bulk of the civil business was transacted at the sheriff's tourn; the want of a ready communication with the metropolis hindered any great influx of causes, having their venue there, into the superior courts; and the writ of Nisi Prius mitigated the evils of the encroachment of the Courts of Westminster upon the local tribunals, and was a boon to the suitor, since by its operation he had a skilled judge presiding, whose advent saved both the plaintiff and the defendant the expense and inconvenience attendant on a trial remote from their homes. The criminal business was for the most part disposed of by the justices in eyre, or more recently by justices in quarter sessions.

"Times and seasons being alike to a reformed church, and the subdivision of labour producing a like result to nearly all classes, so far as attendance on the courts was concerned, these terms and circuits would doubtless have been long since completely altered, but for the conservative principle which is a constituent element of everything English. Slight changes have indeed been made, but not such as the present state of things requires."

The alterations proposed by Mr. Mundell are the following—that there should be three terms in the year, of about four weeks each, beginning respectively in January, April, and September: that the London Sittings should be altogether abolished: that after the first eight days of each term a puisne judge of each court should sit de die in diem to the end of the term to try common jury causes: that after term there should be a sitting before the chiefs for fourteen business days to try special jury causes—a second court to be held, if necessary, before the puisne judge of *any* court: that the business of the several courts should be equalised, by distributing the causes amongst them: that the sittings in error should be held during the sittings after term, and be presided over by at least eight judges: and that a judge of each court, other than the one sitting at Nisi Prius, should attend chambers daily during term, and should act indiscriminately for all courts.

Respecting circuits, Mr. Mundell proposes that three should be held in each year, beginning respectively in February, May, and November.

He proposes that the following places should be appointed for the trial of causes and prisoners:—

Carlisle.
Newcastle-upon-Tyne.
Lancaster.
York.

Gloucester.
Reading.
Winchester.
Bristol.

Liverpool,
Manchester, } alternately.
Lincoln.
Chester.
Derby,
Nottingham, } alternately.
Leicester,
Peterborough.
Birmingham.
Bedford.
Shrewsbury.

Exeter.
Brighton.
Maidstone.
Ipswich,
Norwich, } alternately.
Chelmsford,
Carmarthen.
Brecon.
Bangor.
Monmouth.

"I offer," he says, "this list but as an approximation to what would be desirable. The two elements for consideration should be population and the facility of transit to the given place from the included district. The districts to be assigned to these places would necessarily include several counties, and sometimes parts of three or more several counties; the whole jurisdiction of counties of cities and towns should be absorbed."

Mr. Mundell is also of opinion that common jurors should be paid for their services, and a power be vested in judges of allowing the costs of witnesses called for prisoners. Upon these subjects he says—

"As jurymen under the new arrangement would be called a greater distance from their homes, it would be imperative that they should no longer travel at their own charges. I have never been able to understand why they have been compelled to do so hitherto. The reasons which necessitated their attendance as the pares of the lord's and afterwards of the king's court have long since ceased to operate. Witnesses are paid either by the parties or out of the consolidated fund; jurymen, if necessary to a trial, ought in like manner to be paid. In most counties eighty form a panel: a payment to each juror of 7*s.* a day, with a reasonable amount for travelling expenses, would form but a small item in the annual expenditure of this great country, and would go far to reconcile the class from which jurymen are selected to what is now considered as an irksome and harassing duty; nor would it be unreasonable to make each cause pay a sum of two guineas to a jury upon the trial.

"As prisoners would also be removed for trial to a distance from their homes, it would be but a fair measure of justice to allow judges the power of ordering the costs of witnesses called by prisoners to be paid as costs of the prosecution. This should extend both to witnesses to character and to facts. This power would not be imperative upon the Court, and there is but little doubt that by the exercise of a wise discretion the judges would hinder the privilege from degenerating into abuse. If calling witnesses by the prisoner either elicits truth, or, by fairly and properly introducing character as an element, enables the jury to form a right judgment on the facts, it is hardly just that the expense should fall on the accused."

Such are the main outlines of Mr. Mundell's scheme; he supports it by various arguments, for which we must refer our readers to the pamphlet itself, as also for his plan relating to quarter sessions, which he proposes should be held, as now, four times a year, but at different periods, and be presided over by paid chairmen.

No doubt more frequent circuits and sittings would do much to restore business to the superior courts, which now finds its way to county courts; and, with all our love for the Long Vacation, we cannot dissent from Mr. Mundell's proposal to interfere with it.

"The Long Vacation, in this way," he says, "would commence upon the 1st day of July, and terminate upon the 29th day of September; the interval of relaxation, though earlier, would be somewhat longer than at present. But I venture to submit, as a matter of importance to the public, that sittings for a somewhat lengthened period should be held in August, by one judge in each court, for the dispatch of urgent business. Under our present system, though a cause be ripe for trial in about thirty days, it may not be capable of trial for five months. Custom has reconciled lawyers to the contemplation of this anomaly; but its continuance can hardly be justified, more particularly when inferior tribunals are open monthly to the suitor. The length of these sittings should depend upon the entry, and might, perhaps, be limited to the trial of cases specially requiring dispatch; but their adoption would do much to obviate the recourse to trickish pleading, in order to throw suitors over the assizes, which, in the result, robs them not unfrequently of their entire demand, being, in fact, a denial of justice. No doubt the over-worked judge needs relaxation, the exhausted counsel no less indulgence; but the suitor, whose interests should be paramount, requires that during one quarter of the year he should not be compelled to slumber on his rights, unless his claim be capable of being disposed of in the county court, either by its being small in amount, or by an abandonment of the excess. It seems the reverse of reasonable that small claims should be recoverable, while large claims may be lost for want of an active and accessible tribunal. These sittings in the metropolis, conjoined with the power of trial given in the county courts after the parties are at issue in the courts at Westminster, under the 26th section of the 19 & 20 Vict. c. 108, (the last County Court Act), although this is unfortunately limited to cases under 50*l*., would go far to obviate the inconvenience now felt by suitors from the closing of our courts."

And again, upon this subject, he says—

"The advancing the Long Vacation is essential, in order that sufficient time may be given to the Autumn Circuit, and that that circuit may fall at a less inconvenient season of the year. I have not ventured to diminish the length of this interval of relaxation, simply because I believe it would be impossible to effect a change—so strong and inveterate is habit; but I have endeavoured to mitigate the mischiefs arising from it by the introduction of vacation sittings for the dispatch of urgent business. Whether this boon should extend only to urgent business is matter for consideration; in the first instance, it might perhaps be so limited. In local actions with a country venue the third circuit would be of the greatest utility; and these additional sittings, where the venue is transitory, would give great facilities to the mercantile classes. The inconveniences arising from this hiatus in the legal year are well and forcibly pointed out by Mr. Pollock, the judge of the Liverpool County Court, before the commission appointed respecting those courts. I am aware this proposition will be unpalatable to judges and the bar; but as respects the former, if each judge, exclusive of the chiefs of either court, were to act in rotation, they would only be required to sacrifice about three weeks of their Long Vacation every fourth year; and as respects the latter, I do not think there would be much difficulty in securing the attendance of a sufficient number to meet the exigencies of clients."

WITCHCRAFT.

Mr. Amos, in his curious and interesting work, "Ruins of Time," places witchcraft, or a belief in it, among the things of the past; but the strange trial at Stafford last week has converted the "ruin" into a comfortable and modern farm-house in Staffordshire. The faith which the farmer and his family had in the "wise man's" assertion, that everything, from the master and mistress to the cheese-kettle, was bewitched, the payment of 3*s*. 6*d*. per head for pigs and 5*s*. for the baby in order that the enchantment might be removed from them, the struggles between the wizard and his professional brethren before he could overcome them, the fiery dog disappearing through the keyhole, and the other dog standing on its hind legs with its tongue out of its mouth "a quarter of a yard long," have been fully described in the public journals, and need not be dwelt upon by us. Approaching the subject in a more professional spirit, we lay before our readers some extracts on this subject from the book to which we have referred, and which possess a peculiar interest in consequence of the recent trial, and also of the fact that a belief in witchcraft still prevails to a wide extent among the lower orders, especially in agricultural districts. Mr. Amos thus writes—

"On the subject of witchcraft, Sir M. Hale states at length the statute of James, who had felt himself aggrieved by witches detaining him with contrary winds when he made his romantic expedition in search of his Queen. The statute comprises five branches that were capital for the first offence—as for example, to *feed* an evil spirit or suckle imps; and five more that were capital for the second offence—as for example, charms to provoke unlawful love. In the play of 'Ignoramus,' acted before King James at Cambridge, there are various allusions to the popular superstition concerning witches; and the language of an indictment is put into the mouth of *Ignoramus*, who accuses *Polla*—'Tu equitas in aere super broomas et baculos;' and, in reference to an ancient notion mentioned by Shakspeare* and in Hudibras, he says, 'Sed si possum trahere sanguinem de eâ primum non curo: adventurabo; non audeo; immo audeo.'

"A statute of Elizabeth against witches had preceded that of James. In a sermon preached by Jewel before the Queen, the bishop says, 'Witches and sorcerers within these last few years are marvellously increased within your Grace's realm. These eyes have seen most evident and manifest marks of their wickedness. Your Grace's subjects pine away even unto the death; their colour fadeth, their flesh rotteth, their speech is benumbed, their senses are bereft. Wherefore your poor subjects' most humble petition to your Highness is, that the laws touching such malefactors may be put into execution; for the shoal of them is great, their doing horrible, their malice intolerable, their examples most miserable; and I pray God they never practise further than upon a *subject!*' King James, in pursuance of his retaliation against the Lapland witches and their sisterhood, writes that he undertook his work on Dæmonology on account of the 'fearful abounding of those slaves of the devil, witches and enchanters.' Lord Bacon in his Natural History relates, without comment, that 'the ointment which witches use is reported to be made from the fat of children dragged out of their graves'—a superstition similar to that noticed by Shakspeare—

"'Finger of birth-strangled babe,
Ditch delivered by a drab,
Make the gruel thick and slab.'

"The belief of witches, and a general notion of its being fit to punish them with death, is prevalent in the East Indies. In Macnaghten's Adawlut Reports several cases occur of trials relating to witchcraft. In the case of *Rungoaah* and six others, in 1821, the prisoners were convicted in the Nizamut Adawlut of murdering a woman on suspicion of being a witch: a regular trial of the deceased for witchcraft appeared to have taken place by the inhabitants of her village. In *Injeet Sing's case*, in 1822, the prisoner was the head of a village; he had a sick child, whose illness he imputed to the incantations of the prosecutor's wife; he therefore confined the woman in the stocks; a few days afterwards she was found hanging by her neck to a tree. There are no less than ten decisions in the first five volumes of the Nizamut Adawlut Reports concerning charges of murder for killing persons on the alleged ground of being witches or sorcerers. In one of the cases, Churrun, the prisoner, murdered the deceased under the impression that he had transformed himself into a tiger and carried off the prisoner's daughter. The prisoner was sentenced only to imprisonment for seven years. This was in 1833.

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* "*Talbot*, in 'Henry VI,' says to the *Maid of Orleans*—
'Blood will I draw of thee; thou art a witch.'

"On the subject of evidence, Sir M. Hale observes, that very young people, under twelve years of age, are sometimes examined without oath, 'which possibly, being fortified with concurrent evidences, may be of some weight, as in cases of rape, witchcraft, and such crimes as are practised on children." Dalton, a high legal authority, often quoted with respect by Coke and Hale, lays down the following rules respecting evidence on prosecutions for witchcraft:—'Spectral evidence, i. e. the afflicted parties, thinking they see the persons who torment them, may be given in evidence. Insensible parts and teats are signs of witchcraft. The devil's mark is like a flea-bite; imps may be kept in pots or other vessels, and the pots or places in which they are kept stink detestably, and therefore such stinking places in a house are signs that imps are kept.' An inability to read the Lord's prayer forwards has been supposed an infallible test of witchcraft. It is a curious part of the history of prosecutions for this offence, that many old women have been terrified into confessions of their familiarity with the devil.

"At a trial of two witches hanged at Lincoln for bewitching a child of the Earl of Rutland, (the child's monument is preserved), part of the evidence was, that one of the alleged witches rubbed her cat with a handkerchief belonging to the child, and bade her 'fly and go;' to which the cat answered '*Mew.*' On the trial of the witches of Warbois, at Huntingdon, (on which occasion the prosecutors gave a considerable sum to Queen's College, Cambridge, for an annual sermon against witchcraft), it was part of the evidence against the prisoners that one of the bewitched persons *dreamt of a cat.* King James was of opinion that the reason of there being more witches than wizards was, because the serpent, after the seduction of Eve, found himself 'homelier' with the female sex. The lively Harrington accounted for the supposed phenomenon to the King by suggesting that the devil was naturally partial to old women, because it is written, 'he walketh in dry places.'

"The celebrated trial before Sir M. Hale of two old women for witchcraft took place at Bury in the year 1665. Rose Callender and Amy Duny, widows, were tried before him for bewitching seven people, and assuming for the purpose various shapes, as those of a bee and a mouse; but collateral evidence was given of bewitching two carts, a chimney, and a firkin of fish. The provocation alleged for the malice of the supposed witches was the refusal of some herrings, very much like that resented by Shakspeare's witch—'A sailor's wife had chesnuts in her lap, and mounched, and mounched, and mounched. "Give me one," quoth I. "Aroint, thou witch," the rump-fed ronyon cries—I'll do, I'll do, I'll do.'

"Among the other absurdities at this trial, an experiment was tried of the supposed witches being made to touch the persons bewitched, whereupon they would suddenly shriek out, and open their hands, which were before clenched, that would not happen on the touch of any other person; and again, they were blinded by their own aprons, and yet the touching took the same effect as before. Upon an ingenious person suggesting that there might be a fallacy in the experiment, Lord Cornwallis, Mr. Serjeant Keeling, and some other gentlemen in court were deputed to examine one of the distempered women, together with one of the supposed witches, in the further part of the hall. An apron was put before the eyes of the woman said to be bewitched, and then another person, not one of the accused, touched the woman's hand, 'which produced the same effect as the touch of the witch did in court.' Whereupon the reporter, though evidently a believer in witchcraft, adds, 'The gentlemen returned openly protesting that they did believe the whole transaction of this business was a mere imposture.' In the course of the trial Sir M. Hale asked (what would be an extraordinary question in the present day) Sir T. Brown, author of the 'Vulgar Errors,' what he thought of the transaction; who gave his opinion that the children were bewitched; thus countenancing the most pernicious of those errors which he wrote a book to explode.

"Sir M. Hale declined repeating the evidence to the jury, 'lest he should wrong one side or other,' but observed that there was no doubt of there being such creatures as witches, according to the testimony of the Scriptures and the laws of all nations, and particularly the act of Parliament of King James.

"The prisoners were convicted on Thursday afternoon, March 13, 1665. The next morning the three children that had been bewitched came to Sir M. Hale's lodging in as good health as ever they were; and their friends were asked at what time they were restored to their speech and health? Whereupon 'Mr. Pacy did affirm, that within less than half an hour after the witches were convicted they were all of them restored, and slept well that night, feeling no pain; only Susan Callender felt a pain like pricking of pins in her stomach.' The two old women were executed on Monday, the following 17th March. On the next Sunday, Sir M. Hale wrote a 'Meditation' (afterwards published) 'upon the Mercy of God in preserving us from the Malice and Power of Evil Angels;' 'in which,' says Lord Campbell, 'he refers with extreme complacency to the trial over which he presided at Bury.'

"It can scarcely be admitted, as a palliation of Sir M. Hale's conduct with regard to the Bury witches, that he acted in conformity with law, and in an age comparatively unenlightened; for his conclusion upon the evidence in the case cannot be reconciled with ordinary unprejudiced judgment; and besides, the opinions of philosophers, like Hobbes, his contemporaries on the bench, were not all equally disposed to judaise.

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"Roger North writes of Lord Keeper Guildford—'In trials of some criminals whose cases proved very obscure or doubtful, especially if they were capital, he was infinitely scrutinous; but never more puzzled than when a popular cry was at the heel of a business; for then he had his jury to deal with, and if he did not tread upon eggs, they would conclude sinistrously; and for this reason he dreaded the trying of a witch. It is seldom that a poor old witch is brought to trial on that account but there is at the heels of her a popular rage, that does little less than demand her to be put to death; and if a judge is so clear and open as to declare against that impious vulgar opinion, that the devil has power to torment and kill innocent children, or that he is pleased to divert himself with the good people's butter, cheese, eggs, pigs, and geese, the countrymen (the triers) cry, "This judge hath no religion, for he doth not believe in witches;" and so, to shew that they have some, hang the poor wretches.'

"After mentioning several trials of witches, Roger North relates the particulars of the trial of a wizard for bewitching a girl thirteen years old, who, when he was brought near her, vomited *straight* pins, which could not be so well concealed in the mouth as crooked ones, which were usually vomited in such cases. It was shewn that the girl, in doubling herself under a pretended fit, took the pins with her mouth out of the end of her stomacher. On Lord Guildford going out of court after this trial, an hideous old woman cried, 'God bless your Lordship! Forty years ago they would have hanged me for a witch, but they could not, and now they would have hanged my poor son.' Lord Holt tried ten cases for witchcraft, in all of which the prisoners were acquitted. Before him was also, in 1703, tried a case the converse of that tried by Sir M. Hale. One Hathaway was tried for pretending that a woman had bewitched him, and caused him to fast, among other injuries, and that, having a presentiment that if he drew the witch's blood he should recover, he scratched her face and recovered on the spot. For attempting the woman's life by an imputation of witchcraft, he was punished with pillory, fine, and imprisonment, as an impostor.

"In the reign of George II all prosecutions for enchantment, sorcery, or conjuration were abolished by statute. Fifteen years after the passing of that law, in 1751, three persons were tried at Hertford for drowning Ruth Osborne in a pond as a witch. A notice had been published in the following terms:—'This is to give notice, that on Monday next a man and woman are to be publicly ducked at Tring, in this county, for their wicked crimes.' The pond was two feet and a half in depth, and the not sinking was considered conclusive proof of witchcraft. One of the prisoners was executed, and afterwards hanged in chains. The multitudes who assembled to see the execution muttered it was a hard case to hang a man for freeing the country of a witch. Eight years afterwards, in 1759, at Wingrove, in Hertfordshire, an old woman of the name of Susannah Hannokes was in peril of drowning for bewitching a spinning-wheel, but was saved by challenging to be weighed against the Bible. She was accordingly weighed nearly naked in one scale, and the parish Bible in the other, all in the parish church; she owed her life to her preponderance. So late as 1825 a man sixty-seven years old 'swam for a wizard,' in the presence of several hundreds of persons, in the parish of Wickham Skeith, in Suffolk.

"Disgraceful as the popular superstition concerning witches has proved to our judicial annals, it has embellished our national literature in numerous instances; it still holds possession of our stage in *Macbeth*, and in the exclamation of *Richard III*—

"'Look how I am bewitched! Behold, mine arm
Is like a blasted saplin withered up.'"

THE REPORT OF THE REGISTRATION OF TITLE COMMISSIONERS.

This Report* extends to forty-seven folio pages. The greater part of it is devoted to a discursive criticism of the present mode of making out and proving title to land in England, the existing systems of registration for various purposes in England and Ireland, (the registration of deeds in Scotland not being alluded to), and the various plans for registration of *title* that have been proposed.

The scheme for a registration of assurances which was matured by Mr. Duval and the late Registration Commissioners is rejected by the present commissioners, as being likely to aggravate the evils of the existing system. We think they are right in preferring a registration of title; but we are satisfied that the objections to Mr. Duval's system have been much exaggerated, and that it might be adopted with advantage, if a better system could not be devised. The commissioners recommend a plan for registering title which is substantially the same as that of Mr. R. Wilson.

The Report only describes the leading features of the proposed plan in very general terms; but there is a reference to a bill drawn by Mr. W. D. Lewis, which, differing in some respects from the recommendations of the commissioners, is stated to agree with them altogether in principle.

It is proposed that before the adoption of the system throughout England and Ireland, an experiment shall be made in a single county or district; and the selection of a district in Ireland, where the existing registry and the proceedings of the Incumbered Estates Court seem to afford facilities for the change, is recommended.

For some years at least registration is to be optional; but the title to an estate once placed upon the registry is ever afterwards to depend upon the entries in the register. Vendors or purchasers, who are willing to pay an insurance premium to the Government, may have an official investigation of title at their own expense, and, if the title is approved, a warranty which will give them an indefeasible title to the land; and any persons damnified by such warranty are to be compensated in money by the Government. This warranty of title is not, however, put forward as an essential part of the scheme.

In the case of an ordinary registration without warranty, any person applying to have his title to any specific property entered on the registry for the first time must declare on oath that he is in the actual enjoyment of the rents and profits, and believes himself to be entitled in fee-simple, either without incumbrance, or subject to any specified incumbrances, and must also produce, when it can be done, the last instrument of conveyance of the fee, or such other evidence as the registrar may find it necessary to require in order to exclude fraudulent claims; and the registrar may, if it is thought necessary to the same end, give any public or other notices. On complying with these conditions the applicant will receive a certificate of ownership, stating his name, describing the lands, and referring to the incumbrances, if any, and to the entry in the book of registry.

The registered owner for the time being will, subject to any adverse title existing at the date of registration, (if the title is not warranted), and to any incumbrances or lien which may be afterwards created or disclosed on the register, have the absolute power of disposition of the fee-simple, unless that power is restrained by caveat or injunction under the provisions of the act; and the only title which purchasers and others dealing with the registered owner will have to look to will be his title as it appears on the register.

Partial estates and interests, other than simple mortgages or charges and leases for years, will not be allowed to appear on the register. The exception in favour of charges and leases is not arbitrary. The owner of the fee is not the less regarded as the present owner after he has charged it as a security for a debt, or has committed the possession to a tenant.

After an estate has been placed on the register the anterior title will continue to be investigated by intending purchasers and mortgagees as at present, until the lapse of time renders such a precaution unnecessary; but there will be no investigation of the registered title beyond the entry of the title of the registered owner for the time being.

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* The commission is dated on the 18th January, 1854, and directed to the Right Hons. J. H. Walpole and Joseph Napier, the present Chief Justice of the Common Pleas, Sir R. Bethell, and T. E. Headlam, V. Scully, Robert Lowe, W. D. Lewis, H. Drummond, J. E. Denison, R. Wilson, and W. S. Cookson, Esqrs.

The registered owner, when not bound by a caveat or injunction, may transfer his title, by giving up his certificate of title, and directing the registrar to substitute the name of the intended transferee. The commissioners propose that there shall be a deed of transfer in a short and simple form, to be authorised by the act. This is a mere question of names. The transfer will substantially be made on the register, and we do not see how anything can be requisite beyond the surrender of the certificate, the direction to the registrar, and the consequent entry and fresh certificate. All beyond this will be either useless, or matter of contract or covenant between the parties, having no effect on the registered title. If the transfer is confined to a part of the property comprised in the old certificate, the transferor will receive a fresh certificate of title to the residue.

To provide for the devolution of the registered title on death a real representative is to be constituted, who, if the deceased has not otherwise directed, will be the executor, or where there is no acting executor, a person to be appointed by the registrar or a judge.

No purchaser for value from a registered owner is to be affected by notice of unregistered interests; but the jurisdiction of the Court of Chancery in cases of actual fraud is not to be taken away. Volunteers will be bound by unregistered rights.

Two or more persons may be registered as owners "without survivorship," with the effect of rendering the estate inalienable by the survivor, even as to his own share, until the registrar or other appointed authority has supplied the vacancy or vacancies occasioned by death. This is intended to prevent that misdealing with trust property which in almost every instance in which it does occur is committed by a single trustee.

After giving, in the words of the commissioners, an explanation of the guards which are proposed to be placed upon trust property by means of caveats or inhibitions, we shall make some miscellaneous extracts from the *Report*, which we think has been prepared on the whole with discretion and sound judgment. But whatever may be thought of the wisdom of the scheme, no one who reads the Report attentively will deny that astuteness at least has prevailed in the councils of its composers:—

"As a further protection, those parties who are entitled to any unregistered interest, which, as the law now stands, would render their concurrence necessary in a sale of the fee, will be at liberty to enter in the registry a caveat or inhibition against the transfer of the registered ownership. This caveat or inhibition may and ought to be of various kinds, or various in its operation, so as to adapt itself to the different circumstances under which it will be required. To prevent abuse it will be lodged at the register office only under proper sanctions, such as the consent of the registered owner, or the order of the Court of Chancery if the registered owner improperly refuse to give his consent; and to secure protection suited to the various conditions of settlements, the caveat or inhibition will be allowed to be so framed as to prohibit the transfer of the registered ownership either for a time specified, or during particular lives, or until the occurrence of a stated event, or without the concurrence of certain parties who for that purpose may be named or referred to as protectors, or under any other condition conformable to law which the parties themselves may think fit to impose. The simple effect of such a provision will be, that as long as the caveat or inhibition remains, the registered ownership cannot be alienated without the permission of those whose consent will be thus rendered necessary; but if all these parties desire a sale, that consent can previously be obtained, and so the purchaser will always be able to contract for the property on the express condition, or with the absolute certainty, that he need not move in the matter until the title has become perfectly clear of the equitable interests thus interposed*.

"When it is remembered that the protection thus afforded to the beneficiaries of land will be greater than that which is now afforded to the beneficiaries of stock or railway shares, there can hardly be a doubt that—taken in connexion with the fact, that, except as against purchasers without fraud, the beneficial interests will continue, as now, to affect the land—these various methods of protection will be found sufficient. If it be suggested that fraud may still be practised, the answer is, that there will still remain the remedy by suit, by injunction, and by account. For it is to be observed, that an unregistered interest will entitle the beneficiary to enforce the performance by the registered owner—not being a purchaser—of such duties as properly ought to be observed and performed by him; and for that purpose, but for that purpose only, those duties will be deemed to be trusts cognisable, like other trusts, in the Court of Chancery, and determined, like other trusts, on the principles of equity.

"Where the registered owner shall be a person named such for the purposes of any settlement, then, as between such registered owner and the beneficiaries interested under the settlement, he will not be at liberty to retain the registered ownership, or to remain on the register as registered owner for any longer period, or under any other circumstances, than, according to the present rules of Courts of equity, he would be entitled to retain the legal estate if he were a trustee of the fee upon trusts similar to the provisions contained in such settlement, and he will be bound to make a grant of the registered ownership to such person as may be named in that behalf by the beneficiaries."

"We have intimated our opinion, that although the compulsory formation of public maps would be open to many and grave objections, yet the use of a map properly authenticated for each individual property, together with the customary verbal description, would probably furnish the best means of describing and identifying the land, and indexing it correctly. To accomplish this object in the fullest manner we accordingly recommend—

"1. That the registrar shall have power to require the description of the registered lands to be stated and set forth in such form and manner as he may deem to be best fitted for the purposes of registration.

"2. That at the time of registration it shall be lawful for the registrar to require the parties applying to be registered as owners of any lands to produce a private map or plan of the lands proposed or intended to be registered; and that such map or plan shall be made on such scale, and contain such particulars for identifying the same with the property registered, as the registrar by any general or special regulation may in that behalf require.

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* "It has been suggested that it might be lawful for the parties interested in the trusts of any settlement or will to deposit privately with the registrar a copy of the settlement or will at the time when the lands, which are or may be the subject of such settlement, are entered on the register, with a private instruction that no transfer shall be afterwards made of the registered ownership without the consent of the parties who for the time being may be interested, or who may have power of consenting under the settlement or will, or otherwise than under and in conformity with the powers of the settlement or will."

3. That before the registration of the ownership of any land the private map or plan so produced by the applicant shall in every case be referred to in the description of the lands required to be entered on the register itself.

"4. That the registrar shall also be empowered to require, at the time of registration, that the property proposed or intended to be registered shall contain a reference, in the description given of it, to some public map, to be kept in the registry.

"5. That for that purpose he shall be at liberty to declare that the maps made under the direction of the Master-General of the Ordnance, the tithe commutation maps, or any other maps of the accuracy of which he is satisfied, shall be deemed public maps for the purposes of registration; and if he thinks fit he shall cause copies or reprints of any parts thereof to be made, either on the existing or on an enlarged scale; and such maps as are directed to be used for the purposes of registration shall be deposited in the registrar's office, and copies thereof published and sold in such manner and subject to such provisions as the registrar may direct.

"6. And that as the main object of the public maps will be to facilitate searches and references, the registrar shall be empowered to adapt the maps to the districts created for the purposes of registration, or to form the districts with reference to the number, quality, and description of the available public maps, so that each district may have its own public map or maps, to which the parties seeking for information will be able to refer."

"With regard to incumbrances, we think that the benefits to be derived from registration should be extended to the owners of charges upon the fee of land as fully as to the owners of the fee itself. The registration of charges may properly be subjected to the following rules:—

"1. Every charge intended to be registered shall so be entered on the register as to shew the name of the owner thereof, the lands upon which the same is made, the amount of money secured thereby, the rate of interest payable thereon, and the date of the instrument by which it is created.

"2. Every such charge shall also be entered under some proper sanction, such as the consent of the registered owner to the registration thereof, or the order of a competent Court decreeing or directing the same to be registered.

"3. On the registration of such charge the registered ownership will be subject to the legal rights and powers incident to the charge, and either may be transferred independently of the other.

"4. A certificate of the charge will be given by the registrar to the party applying to register the same.

"5. The priorities of all charges shall be determined exclusively according to the dates of their respective registration.

"6. Unregistered charges shall only take effect as unregistered interests, but may be protected in like manner as unregistered interests.

"The benefit of registration will also be conferred on the owners of leases for the term of twenty-one years and upwards. The registration of leases will be subject to the following rules:—

"1. Every lease intended to be registered shall so be entered as to shew the name of the owner thereof, the length of the term, the date of the lease, and the rent reserved.

"2. Every such lease shall also be entered under some proper sanction, such as the consent of the registered owner, or the order of a competent Court decreeing or directing the same to be registered.

"3. On registering such lease the registered ownership will be subject to the legal rights incident to the lease, and either may be transferred independently of the other.

"4. A certificate of the lease will be given by the registrar to the party applying for the registration of the same.

"The mode of transferring registered charges and registered leaseholds will be similar in all respects, mutatis mutandis, to the mode of transferring the registered ownership; and on the death of the registered owners thereof, their representatives will be entitled to be registered in their place."

"With regard to some miscellaneous questions as to the machinery of the proposed registry, we think that the title deeds should not be required to be delivered up to the registrar; that the registrar should have a general power of determining conflicting claims by consent, or of putting them in a course of judicial determination; that no tenancy in common should be allowed in a registered ownership; that a general power should be given to the registrar of making necessary regulations; and that there should be a difference of fees for large and small transactions.

"With regard, however, to the powers to be intrusted to the registrar, we conceive that, as a general principle, his authority should be ministerial and executive in its nature, and not judicial. We agree in an observation contained in the evidence before us, that there is no feeling more strongly rooted in the public mind than dislike of official interference with their private affairs, and any system must be considered practically impossible, however theoretically perfect, which would render the approval or sanction of a registrar necessary for the completion of transfers, or would give him any discretionary power to prevent them."

"We take leave further to observe, that we think it will be very difficult to deal fully or satisfactorily with the subject of registration of title without making fresh regulations on the subject of the professional remuneration of solicitors. We observe that the Real Property Commissioners also found it necessary to direct their attention to this subject when making their report in favour of the registration of assurances.

"In England a solicitor is allowed to receive such fees only as the judges of the court assign him, and these fees are so devised as to attach to certain portions only of his work, leaving the rest to be done without fee. In matters of conveyancing, the whole trouble of the transaction is principally compensated by fees, assigned according to the length of the various documents. Theoretically, in England, a solicitor is entitled to the same fees for superintending transactions relating to the smallest properties as to the largest. In Scotland, and many foreign countries, the work is principally compensated by a brokerage or commission—a form of remuneration almost universally adopted by the usages of commerce for all other agencies.

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"If, therefore, it is considered desirable to continue to prescribe by law a scale of remuneration for conveyancing business, it would seem right that an opportunity should be given for reconsidering the whole subject of solicitors' fees with reference to conveyancing. The services of solicitors will be necessary in the conveyancing transactions contemplated by the measure we propose, and reliance must still be placed upon their honour and character in performing the important duties and incurring the responsibilities which will still attach to every transfer."

RICHARD ENGLAND, Wilsden, Bradford, Yorkshire, manufacturer, April 21 and May 11 at 11, Leeds: Off. Ass. Hope: Sols. Weatherhead & Burr, Keighley; Bond & Barwick, Leeds.—Pet. d. March 13.

Meetings.

Henry William Smith, Tothill-street, Westminster, woollendraper, April 16 at 2, London, last ex.—*George Groom*, Norwich, shoe factor, April 9 at 11, London, aud. ac.—*John Bentley Carr*, Bardsley, Ashton-under-Lyne, Lancashire, brewer, April 3 at 2, Manchester, aud. ac.—*James Philip Tait Lazarus*, Horbury, Yorkshire; Stewart-street, Spitalfields, Middlesex; and Onde Schams, Amsterdam, Holland, merchant, April 3 at 11, Leeds, aud. ac.—*Thomas Rodger*, Attercliffe-cum-Darnell, Yorkshire, grocer, April 4 at 10, Sheffield, aud. ac.—*Matthew Smith*, Sheffield, Yorkshire, steel manufacturer, April 4 at 10, Sheffield, aud. ac.—*Joseph Meeke*, Sheffield, Yorkshire, draper, April 4 at 10, Sheffield, aud. ac.—*Isaac Unwin*, Poland-street, Oxford-street, builder, April 16 at half-past 12, London, div.—*Edward Pollack*, Fieldgate-street, Middlesex, sugar refiner, April 23 at 12, London, div.—*James Seddon*, Liverpool, marble mason, April 15 at 11, Liverpool, div.—*Samuel Crane Fox*, Liverpool, wine merchant, April 15 at 11, Liverpool, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Wm. Edwards, High-street, Wapping, ale merchant, April 17 at half-past 12, London.—*Ephraim Fairhead*, Cressing, near Braintree, Essex, cattle dealer, April 16 at half-past 11, London.—*Catherine Humphery*, Baker-street, Portman-square, bookseller, April 15 at 12, London.—*John Arliss*, Plymouth, Devonshire, carrier, April 23 at 1, Exeter.—*John Ladd*, Liverpool, contractor, April 17 at 11, Liverpool.—*P. Porter*, Liverpool, cotton broker, April 16 at 11, London.—*Charles Hudson Clayton*, Liverpool, hosier, April 16 at 11, Liverpool.—*James Fell*, Liverpool, wholesale tea dealer, April 20 at 11, Liverpool.—*John Venables*, *Arthur Mann*, and *Henry Grasett*, Buralem, Staffordshire, earthenware manufacturers, April 16 at half-past 10, Birmingham.

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Samuel Belcher, Lower-marsh, Lambeth, Surrey, hatter.—*Charles Margerison* and *Ernest Benjamin Fort*, Savage-gardens, Tower-hill, City, wine merchants.—*Moss Alfred Lewis* and *Jacob Lewis*, Fore-street, Cripplegate, City, lithographic printers.—*Richard Kirkman Lane*, Argyle-street, Regent-street, Middlesex, and Union-crescent, Wandsworth-road, Surrey, billbroker.—*Charles Edward Davis*, Upper Thames-street, City, wholesale grocer.—*Wm. Hertz*, Mark-lane and Fenchurch-street, City, merchant.—*Edward Smith*, Isleworth, Middlesex, baker.—*Morris Barnett*, Ramagate, Kent, jeweller.—*Wm. Rose*, Kingsland-road, St. Leonard's, Shoreditch, Middlesex, baker.—*John James Vonder Heyde* and *Christopher Octavus Vonder Heyde*, Lower Thames-st., City, tobacco manufacturers.—*George Gosling*, Sidmouth, Devonshire, builder.—*David Imrie*, Manchester, manufacturer.—*Heaton Wright*, Burnley, Lancashire, timber dealer.—*Thomas Cooling* and *Thomas Bowsher*, Sheffield, Yorkshire, joiners.—*Samuel Bayley*, Wednesbury, Staffordshire, grazier.—*Joseph Baxter*, Birmingham, victualler.

Petitions Annulled.

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Partnership Dissolved.

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BETTS'S PATENT BRANDY has ever since its introduction to the public been recognised, both by scientific men and the trade, as the best article ever manufactured in this country. Its claims to such pre-eminence are based upon its unrivalled purity, and its closer assimilation than any other to the flavour of the finest Champagne Brandy.

There has been no Brandy made from wine in France either in the present year or in the preceding one. Owing to the successive failures in their vintages, the French wine-grower gets a higher price for his wine, consumed as such, than he can realise by its being distilled into Brandy; and forasmuch as the Foreign Brandy of recent importations is but the product of British grain and beet-root spirits, the prestige hitherto exclusively enjoyed by French Brandy as having been distilled from a particular French wine no longer exists, and is no longer worthily assignable to it now that it is bunglingly made from other materials. The supply of wine for distillation into Brandy having failed, the French distiller is constrained to recur to a manufacture in which he needs the quarter of a century's experience which has been exercised upon that of BETTS'S PATENT BRANDY, to render his article respectably competitive, and he has not had it. Under these circumstances the Messrs. BETTS challenge that their PATENT BRANDY is superior to any now made abroad.

It is to the interest of the public and the Messrs. Betts that these facts should be widely spread, for recent importations are of a quality so inferior as to disgrace the name they bear, and are twice the price of BETTS'S PATENT BRANDY, which is supplied by the trade to private families in any quantity, down to the single capsuled bottle. Excise regulations prevent its sale from the DISTILLERY, 7, SMITHFIELD-BARS, ST. JOHN-STREET, in any less quantity than two gallons.

GAZETTES.—Friday, *March* 27.

Bankrupts.

JOHN MARSHALL, Reading, Wokingham, Woolhampton, Newbury, Didcot, Sunningdale, Windsor, Datchet, and Marlow-road, Berkshire, coal merchant, (carrying on business under the name, style, or firm of the Great Western Coal Company), April 18 at half-past 10, and May 8 at half-past 1, London: Off. Ass. Whitmore; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, Bucklersbury.—Pet. f. Jan. 27.

BENJAMIN SMITH, Whitechapel-road, Middlesex, licensed victualler, April 9 and May 5 at 1, London: Off. Ass. Lee; Sols. Cox & Sons, 14, Sise-lane, London.—Pet. f. March 25.

JOSEPH SKINNER, Great James-street, Bedford-row, auctioneer, April 17 at 12, and May 8 at half-past 11, London: Off. Ass. Cannan; Sols. Lawrance & Co., 14, Old Jewry-chambers, London.—Pet. f. March 3.

HILLYARD NICHOLS, Bedford, corn merchant, April 17 at 11, and May 8 at 12, London: Off. Ass. Cannan; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, Bucklersbury.—Pet. f. March 27..

WILLIAM DICKENS EVES, Seven Sisters-road, Holloway, and Old-street, St. Luke's, victualler, April 4 and May 7 at 1, London: Off. Ass. Johnson; Sol. Elard, 4, Trafalgar-square.—Pet. f. March 24.

JAMES LONG, Portsea, Southampton, rag merchant, April 7 at 11, and May 7 at 2, London: Off. Ass. Bell; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, Bucklersbury.—Pet. f. March 25.

THOMAS BROOKE WAVELL, Adams-court, Old Broad-street, City, bill broker, April 20 at 12, and May 13 at 1, London: Off. Ass. Nicholson; Sol. Stubbs, 46, Moorgate-street.—Pet. f. March 16.

GEORGE LASHMAR, Brighton, formerly of Tortington-mills, Arundel, Sussex, seed crusher, April 7 at 2, and May 5 at half-past 1, London: Off. Ass. Stansfeld.—Pet. f. March 20.

ANDREW HIND, Pleasant-row, Pentonville, tea dealer, April 7 at 2, and May 5 at 1, London: Off. Ass. Graham; Sols. Willoughby & Co., 13, Clifford's-inn.—Pet. f. March 24.

SOLOMON SOLOMON, Strand, tailor, April 7 at half-past 1, and May 5 at half-past 11, London: Off. Ass. Stansfeld; Sol. Oldknow, 3, Guildford-place, Russell-square.—Pet. f. March 24.

JAMES STEVENS TRIPP, Lombard-street-chambers, Clement's-lane, City, dealer in mining shares, April 8 at 2, and May 6 at 1, London: Off. Ass. Graham; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, Bucklersbury.—Pet. f. Feb. 20.

WILLIAM JEFFCOATT, King's Heath, Worcestershire, baker, April 6 and 27 at half-past 10, Birmingham: Off. Ass. Christie; Sol. Smith, Birmingham.—Pet. d. March 25.

JAMES SMITH, Walsall, Staffordshire, marine store dealer, April 9 at 10, and April 30 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Duignan & Hemmant, Walsall; Hodgson & Allen, Birmingham.—Pet. d. March 23.

CHARLES JAMES, Loughborough, Leicestershire, victualler, April 7 and 28 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Inglesant, Loughborough.—Pet. d. March 24.

WILLIAM MEE, Leicester, manufacturer of hosiery, April 7 and May 12 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Stone & Paget, Leicester; James, Birmingham.—Pet. d. March 26.

THOMAS DILLON, Halifax, Yorkshire, boot maker, April 20 and May 11 at 12, Leeds: Off. Ass. Hope; Sol. Brierley, Halifax.—Pet. d. March 24.

JOHN STEWART, Preston, Lancashire, ironfounder, April 6 and 28 at 12, Manchester: Off. Ass. Fraser; Sols. R. & W. Ascroft, Preston; Cobbett & Wheeler, Manchester.—Pet. f. March 25.

BENJAMIN HORNBY, Hoylake, Cheshire, hotel keeper, April 8 and May 4 at 11, Liverpool: Off. Ass. Cazenove; Sol. Smith, Liverpool.—Pet. f. March 28.

JOHN JONES ROBERTS, Liverpool, metal broker, April 8 and 29 at 11, Liverpool: Off. Ass. Morgan; Sols. Fletcher & Hull, Liverpool.—Pet. f. March 24.

JONATHAN WRIGHT, Burnley, Lancashire, shoemaker, April 20 and May 11 at 12, Manchester: Off. Ass. Pott; Sols. Alcock & Holmes, Burnley; Sale & Co., Manchester.—Pet. f. March 21.

EDWARD WATMOUGH, Manchester, draper, April 11 and May 1 at 12, Manchester: Off. Ass. Hernaman: Sols. Sale & Co., Manchester; Lee, 18, St. Paul's-churchyard.—Pet. f. March 19.

Meetings.

Wm. Ring, Paddington-street, St. Marylebone, eating-house keeper, April 7 at half-past 1, London, ch. ass.—*Osborn E. Teasel*, Norwich, timber merchant, April 23 at 1, London, last ex.—*Robert Senior* and *Stephen Senior*, Staincliffe, Batley, Yorkshire, blanket manufacturers, April 7 at 11, Leeds, last ex.—*Simon Horsman*, Bradford, Yorkshire, tea dealer, April 6 at 12, Leeds, last ex.—*James Taylor*, Bottoms Hall Mill, Tottington Lower End, Lancashire, cotton spinner, April 24 at 1, Manchester, last ex.—*Francois Perrin*, Cleveland-street, Fitzroy-square, dealer in foreign woods, April 6 at 11, London, aud. ac.—*George W. Woods*, Harwood-place, High-street, and Meeting-house-lane, Peckham, Surrey, plumber, April 8 at 12, London, aud. ac.—*Thomas Edwards*, Eversholt-street, Oakley-square, St. Pancras, china dealer, April 8 at half-past 12, London, aud. ac.—*Wm. Sadgrove* the younger and *Richard Ragg*, Eldon-street, Finsbury, and Dunning's-alley, Bishopsgate-street, City, cabinet makers, April 9 at 11, London, aud. ac.; April 25 at 12, div.—*Ann Rees*, Llanelly, Carmarthenshire, grocer, April 23 at 11, Bristol, aud. ac.—*Joseph Leeming* the younger, Hartlepool, Durham, white-smith, April 8 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*John Vernon*, Low Walker, Northumberland, iron ship-builder, April 7 at 11, Newcastle-upon-Tyne, aud. ac.—*R. Hart*, West Hartlepool, Durham, wine merchant, April 8 at 11, Newcastle-upon-Tyne, aud. ac.; April 20 at 12, first and fin. div.—*James Scott*, Batley Carr, Yorkshire, rag merchant, April 20 at 11, Leeds, aud. ac.—*David Rothwell*, Scarr Head, Norland, Halifax, Yorkshire, machine maker, April 20 at 11, Leeds, aud. ac.—*James Wilson*, Princes-street, Hanover-sq., tailor, April 17 at half-past 1, London, div.—*The Royal British Bank*, South Sea House, Threadneedle-st.; Strand; Goswell-road; Shaftesbury-terrace, Pimlico; Regent-circus, Piccadilly; Holborn; Bridge-road, Westminster-bridge; and Stone's-end, Southwark, Surrey, April 17 at 11, London, div.—*Wm. Edwards*, High-street, Wapping, ale merchant, April 17 at half-past 12, London, div.—*Joseph R. Nicholls*, Oxford-street, tavern keeper, April 17 at half-past 1, London, div.—*Robert Henry Adamson*, John-street, Berkeley-square, wine merchant, April 18 at 11, London, div.—*Francis Nicholls*, Thornhill-crescent, Islington, merchant, April 18 at 12, London, div.—*James Hawkins*, Woolwich, Kent, corn dealer, April 18 at half-past 11, London, div.—*James Henry Smith*, Oxford-st., and Connaught-terrace, Hyde-park, corset maker, April 17 at 11, London, div.—*John Cotching*, Hail Weston, Huntingdonshire, farmer, April 18 at half-past 11, London, div.—*John White*, Northampton, draper, April 17 at 12, London, div.—*Joshua D. Stanbury*, Richmond, Surrey, draper, April 18 at 11, London, div.—*Richard Carpenter*, Museum-street, Bloomsbury, licensed victualler, April 25 at 1, London, div.—*Nicholas Andrews* and *Thomas Andrews*, Gateshead, Durham, ironmongers, April 22 at 12, Newcastle-upon-Tyne, fin. div.—*John Dickenson*, Walsall, Staffordshire, merchant, April 20 at half-past 10, Birmingham, div.—*Henry Howgate* and *George Howgate*, Sheffield, steel converters, April 18 at 10, Sheffield, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Charles Ashfield, Home-terrace, Hammersmith, Middlesex, shoemaker, April 18 at 12, London.—*George Fearis*, Lambeth-walk, Surrey, draper, April 17 at 11, London.—*Alfred King*, Dullingham, near Newmarket, Cambridgeshire, corn merchant, April 17 at 1, London.—*Edward Pollack*, Fieldgate-street, Middlesex, sugar refiner, April 21 at half-past 12, London.—*Michael Stepanoff*, Liverpool, merchant, April 24 at 11, Liverpool.—*Miles Lord* and *Geo. Rostron*, Cage Mill, near Newchurch, Lancashire, woollen manufacturers, April 20 at 12, Manchester.—*Thomas Barnett*, Ironbridge, Shropshire, butcher, April 23 at 10, Birmingham.—*Alfred Taylor*, Wed-

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THE JURIST.

LONDON, APRIL 4, 1857.

THE subject of trade-marks was lately considered by the Lord Chancellor in the case of *Farina* v. *Silverlock*, (2 Jur., N. S., part 1, p. 1008; 26 L. J., Ch., 11). The right to have a particular trade-mark to designate a commodity was said by his Lordship not to be "properly described as a copyright, because it is no right at all, unless it is a right which can be said to exist only and to be tested only by its violation. It is a right on the part of any person designating his wares or commodities by a particular trade-mark, as it is called, to prevent anybody else from selling wares which are not those manufactured by the plaintiff with that trade-mark, *in order to mislead the public*, and so incidentally to injure the person who is owner of the trade-mark. . . . . Anybody who has acquired a particular mode of designating his particular manufacture has a right to say, not that other persons shall not sell exactly the same article, better or worse, or looking exactly like it, but that they shall not so sell it as to steal the plaintiff's trade-mark, *and make purchasers believe it is the manufacture of somebody else*. . . . . The gist of a trade-mark in an action at law would be this—that the defendant had sold, as and for the manufacture of the plaintiff, something that was not his manufacture; and this supposed spurious label is put on in order to make it more apparent that it is his manufacture."

The facts of the case before the Lord Chancellor were these:—A printer had been in the habit of printing and selling labels containing the trade-mark of Johann Maria Farina, the well-known manufacturer of eau de Cologne. An injunction had been granted to restrain such printing and selling, but it was now in effect dissolved by the Lord Chancellor, upon the ground that the evidence disclosed a legitimate object for which these labels might be applied by retail dealers, namely, to put on bottles containing the *genuine* eau de Cologne of the plaintiff. This they did either by replacing soiled labels, or by putting them on smaller bottles than those in which they had bought the eau de Cologne. With respect to this part of the case the Lord Chancellor said, "It seems to me clear, that any man who had got any of the eau de Cologne of Johann Maria Farina, and had not got a label, might employ any printer he thought fit to print or engrave for him a label which should be an exact counterpart of that which was used by Farina. There is no copyright in it. All that the law restrains a person from doing is selling the article which is not the manufacture of Farina with the label of Farina upon it. But if it be the article which has been manufactured by Farina, he must not complain that the person sells it with something upon it to represent his trade-mark, though it is not a genuine trade-mark." (See also *Rodgers* v. *Nowell*, 5 C. B. 109).

We may here refer to a somewhat curious case, in which an analogous claim was set up, the plaintiff asserting that he had obtained an exclusive right to the use of the name "Bank of London" for his bank. The declaration alleged that he had established a bank with this name at great expense, and had caused the name to be published, and it was the only bank known by that name; that the defendants fraudulently established another bank under the name of "The Bank of London," in imitation of and as representing that of the plaintiff, and fraudulently transacted business there under the false colour and pretence that it was the bank of the plaintiff, whereby he was deprived of profits, and the public were deceived. On demurrer it was held that the declaration did not disclose a cause of action, as it did not allege that the plaintiff had ever carried on the business of a banker at the bank he had established. (*Lawson* v. *The Bank of London*, 2 Jur., N. S., part 1, p. 716). Willes, J., there said, "With respect to actions for the fraudulent use of a trade-mark, if no use had ever been made of such mark by the plaintiff, the action, I believe, could not be maintained." And Jervis, C. J., said, "All that appears is, that the plaintiff had gone to some expense with reference to establishing a certain bank, and that somebody else had beaten him in the race of competition, and had established another bank under the same name as the plaintiff's bank."

Reviews.

Commentaries on the Laws of England. In Four Books. By Sir WILLIAM BLACKSTONE. *A new Edition, adapted to the present State of the Law. By* ROBERT MALCOLM KER, *LL.D., Barrister at Law.* [*Murray*, 1857.]

THIS is a useful working edition of the Commentaries, not overladen with notes nor disfigured by brackets. The old arrangement of Blackstone is preserved, and modern law has been carefully and skilfully incorporated. For the purpose of extract, we do not know any portion of the book so suitable or so interesting to our readers as the continuation of the history of the law in the last chapter, bringing it up to the present time.

"Nearly a century," writes Mr. Ker, "has elapsed since the Commentaries of Sir William Blackstone were first published. Much as the learned and enthusiastic commentator had cause for exultation in the improvements which had been introduced in his own times, and those immediately preceding, he would have found matter for still warmer panegyric had he lived in our days. The events of the last hundred years have changed the face of Europe; and although our own country has not sustained those disastrous shocks which have been felt from time to time by most of the continental nations, it has not remained a stranger to the general progressive tendency which has been discernible, more or less, over the whole civilised world. On the contrary, the state of continuous healthy progress, which seems to be almost peculiar to our own institutions, has, perhaps, carried us further, in the direction of political and social freedom, than any other nation in the world.

"Among the first and most important constitutional changes to be mentioned was the union of the British and Irish Legislatures—an event which may be regarded as the foundation of that genuine union of interest and feeling between two nations intimately allied by geographical position, common language, and similar institutions, which, if not yet completely attained, seems now at least in a fair way of becoming permanently established. The statute amending the representation of the people in the Commons' House of Parliament, popularly known as the Reform Act, introduced no new principle into the constitution, but simply restored to the great body of the people that ancient right of self-government which they had derived from their Saxon ancestors. Another statute, of almost equal importance, of which the professed object was the restoration of an ancient institution, was that which remodelled the municipal corporations, and removed the many abuses which had gradually crept into these bodies. Several statutes have also been passed for preventing corrupt practices in the election of members to serve in Parliament, and for disfranchising the boroughs where such practices were found to prevail.

"Our civil liberties have been further secured by that amendment of the law of libel which has vested in the jury the right in such cases of deciding as well upon the law as upon the fact, and by the statutory recognition of the privilege of Parliament to publish whatever it pleases. The boundaries of religious liberty have been extended by the repeal of the Test and Corporation Acts—a measure which has enabled that numerous and influential portion of our fellow-citizens who object to the discipline or dissent from the doctrines of the Established Church to participate in those political rights from which they had been before excluded; whilst the Catholic Emancipation Act has relieved those who adhere to the Church of Rome from the civil disabilities and penalties to which they were previously subject. The National Church has probably taken strength from the commutation of tithes, and still more from those statutes which have been passed for the abolition of pluralities, and for compelling the residence of the beneficed clergy. Large and comprehensive measures have also been adopted for the better management and application of the cathedral revenues, and for the subdivision of large and populous parishes, the formation of new parochial districts, and the extension of the church and its institutions. A committee of the Privy Council has been formed for the distribution of the large sums which have for many years been annually voted by Parliament for promoting education among the poorer classes of the people.

"The statutes amending the law of marriage, while requiring this important ceremony to be accompanied in all cases by certain circumstances of publicity and notoriety, have at the same time enabled every individual to enter into this solemn contract in the mode which he considers necessary or proper, and have thus removed an unreasonable restriction under which a large portion of the community previously laboured.

"The abolition of colonial slavery, accomplished at a very great pecuniary sacrifice, is an event in our history never to be forgotten. The spirit of philanthropy which dictated this measure is a very prominent feature of our age, and has displayed itself in a variety of other enactments, particularly those modifying the severity of the laws relating to unfortunate traders and debtors, securing the proper care and treatment of lunatics, amending the discipline of prisons, and providing reformatory institutions for all criminals who seek an opportunity of regaining their lost position. The laws for the relief of the poor have been remodelled; the numerous charities which are to be found in every part of the kingdom have been placed under the regulation and control of a body of commissioners, whose sole duty it is to see that the funds of these institutions are properly applied; the laws relating to game, always a fertile source of crime, have been so far modified that we may anticipate an early repeal of all penal enactments on the subject; and several statutes have been passed having for their object the improvement of the sanatory condition of populous places and the preservation of the public health.

"The interests of trade, commerce, and manufactures have been unceasingly studied and promoted since the restoration of peace in 1815. This is not the place, however, in which to attempt any enumeration of the various statutes which have been from time to time passed for regulating these matters, the legislation relating to which has been often affected and controlled by financial necessities, or by the conflicting views of political economists. It may be enough to allude to the statutes throwing open the trade to the East Indies, to the consolidation of the laws relating to the mercantile marine, and the repeal of the Navigation Acts—all tending towards establishing a system of commerce free from all restraints other than those which the collection of the public revenue, and the machinery required for that purpose, render indispensable. The laws with regard to bankrupts have been consolidated and amended, and courts established for the relief of all insolvent debtors whatever; real property has been subjected to the payment of debts; the rights of authors and inventors have been extended and secured; and the formation of joint-stock companies has been simplified and cheapened, the most ample regulations being made at the same time for the guidance of these bodies. The operations of the mercantile classes have been facilitated by several statutes having reference exclusively to commercial affairs, and protected, to some extent, by other enactments, which have made breaches of trust, committed by bankers, factors, agents, and servants generally, severely punishable.

"In regard to landed property, and its transmission, the most important improvements have taken place. The alteration of the law of descent, the limitation of the time within which actions for the recovery of real estate may be brought, the shortening of the time of prescription or legal memory, the abolition of those complex modes of assurance, fines and recoveries, the modification of the wife's claim of dower, the annihilation of satisfied terms—these, among other things, have tended greatly to facilitate the transfer of property, have got rid of endless doubts and difficulties which perpetually arose upon titles, and have materially shortened conveyances. A great improvement has also been introduced into the law of wills, and there is less danger now than formerly of the wishes of a testator being frustrated. An attempt has been made to get rid of copyhold tenures, and repeated efforts, hitherto without effect however, to introduce a system of registration of the titles to real estates.

"The administration of justice has been greatly simplified by the numerous alterations which have been made in the procedure of the superior courts of law and equity. The abolition of real actions, and of the many fictions which formerly encumbered suits at law, was an important and beneficial change, but not so advantageous to the suitor as more recent improvements in the practice of the courts at Westminster. Even these alterations have been less beneficial to the great mass of the community, however, than the establishment of the new county courts—a measure warmly recommended by Sir William Blackstone, and to some extent a return to the ancient Saxon system, restored, if not established, by King Alfred, for securing the administration of justice at every man's door. The old rules of law excluding the evidence of the parties to the suit, and prohibiting persons who are considered disqualified, either by reason of interest or by crime, from being witnesses, have been repealed, and all practical difficulties in eliciting the truth removed.

"The proceedings in the Court of Chancery have been simplified and shortened; the increase in the number of judges has prevented the possibility of delay in the hearing of causes in that court; and there seems to be no reason why, in ordinary cases, the obtaining of justice in a court of equity should not be a speedy, and not ruinously expensive, process.

"The criminal law has been, as to many of its branches, amended and consolidated, and the severity of punishments at the same time much softened, and adapted more carefully than formerly to the nature and magnitude of the offence. The barbarous sufferings prescribed for those attainted of treason no longer stain the statute-book; and the punishment of innocent parties for ancestral guilt, which often resulted from the doctrine of corruption of blood, can no longer happen; while the offences involving capital punishment, which the convict only escaped by claiming the benefit of clergy, have been gradually reduced in number, until the extreme penalty of the law has become in practice confined to the frightful crime of murder. The trial by battle, and the mode of proceeding by appeal, have been formally abolished; the law relating to principal and accessory has been divested of its niceties; and the forms of the proceedings in the criminal courts so far simplified and improved, that offenders, who have now the advantage of being defended by counsel, rarely escape punishment on purely technical objections."

Letters to John Bull, Esq., on Lawyers and Law Reform. By Joshua Williams, *of Lincoln's-inn, Esq., Barrister-at-Law. 12mo., pp.* 87. [*Sweet.*]

This book is scarcely within our jurisdiction. Mr. Williams explains his object in a few prefatory words:—"People who wonder at lawyers, at what they do and at what they object to, sometimes merely want a little information. This I have endeavoured to supply in as plain and pleasant a manner as I could. I have tried to write pleasantly, wishing to be read; and plainly, wishing to be understood." As lawyers, we and our readers have merely to see, before we recommend these Letters to our lay friends, that Mr. Bull's correspondent, in seeking to explain, has not misrepresented us. There is no startling originality in his remarks; we should mistrust them if there were; but he has expressed what in our judgment is, for the most part, the common sense of the Profession—that is, of the thinking and well-informed members of it; and he has succeeded in writing plainly and pleasantly by writing naturally, without striving after the unattainable felicities of the great master in the style he has chosen.

There are eleven Letters, none of them longer than those we are in the habit of exchanging with our friends. We are not satisfied with the advice given to Mr. Bull in the first, (on professional remuneration), that he should abolish taxation of costs, and trust his attorney to send in a reasonable bill; and if he overcharges, let twelve honest men in a jury-box decide between them. The twelve men must decide either in the dark or in the light. If in the dark, they would be an expensive and clumsy substitute for the present counting machine. If it is possible to shew them a light, the decision of a single honest expert, with the same aid, would be more ready and satisfactory. When we bring an action must there be a jury to try the cause, and then a jury to settle the costs? The difficulty is to discover a principle of charging that will be at once practicable and reasonable.

The second letter treats of the mischievous effect of the existing system of costs on the character of attornies.

In the third letter a few pithy words suffice to expose the flimsy texture of the scenery with the aid of which the Benchers of the Inns of Court have achieved what we trust is but a temporary success for the new farce of "Legal Education."

In the fourth letter the duty of the advocate is defined, and distinguished on the one hand from that of the judge and jury, and on the other from the license which Lord Brougham has been wrongly accused of claiming, but which, in two or three notorious cases, has been unhappily taken in practice.

The fifth letter, on the drawing of acts of Parliament, may be read with advantage by many lawyers. In private practice, it is the exception if a lawyer is employed to do any work of importance for which he has not, by sufficient natural gifts and practice, a special aptitude. We do not ask Mr. Hayes to defend a prisoner, nor Sir F. Thesiger to draw a marriage settlement; but in the transaction of that business of universal concern which is proverbially nobody's business it seldom happens that aptitude of any kind is thought of; still less aptitude for the matter in hand. A list of the lawyers in the late Parliament who have made what in the slang of the day is termed "capital" of law reform and their misdeeds ought to make John Bull blush for his simplicity, and to draw forth an indignant protest from all honest and competent lawyers. "Depend upon it you cannot have a first-rate article unless you pay a good price. It is an exceedingly difficult thing to draw an act of Parliament. A good draftsman may blunder—a bad one must. Think, however, of the expense and anxiety of a law-suit. How many law-suits must be gone through in order to fix the meaning of an ill-drawn act! Would you yourself like to be plaintiff or defendant in some celebrated suit of Bull versus Bull, in which the meaning of some blundering act was laid down by the judges? Be not penny wise and pound foolish. Get not only lawyers, but the best lawyers; and not only the best lawyers, but the men most accustomed to the composition of legal documents, and the most skilled therein; pay them such a price as you must pay if you employ them at all; and your legislation, instead of being an annoyance and a disgrace, will be a source of satisfaction and credit. Is not all this perfectly true, and plainly reasonable? Why, then, not act upon it?" (P. 35*). The subject is continued in the sixth letter, on conveyancers.

In his seventh letter, on the transfer of land, Mr. Williams unconsciously illustrates, as we think, the connexion between common sense and prejudice. He distrusts the present Registration Commission because it has not a pure conveyancer among its members†; and, evidently without having given the matter any deliberate attention, he disposes of the important question of registration by addressing his "gullible" friend in the following style:—"Now, if you are willing to give up settling, and give up leasing, and to go back to a rather primitive state of things, you may, by machinery of registration, in somewhat less than a century's time, make the transfer of landed property wonderfully simple. But if you are not willing to do this, you must patiently submit to bear the expense which the facility and security of disposition you now enjoy inevitably bring."

The eighth letter, on "primogeniture," should have been addressed to Mr. Locke King. We do not believe that John Bull is likely to make any serious mistake about the matter.

The absurdity of our rules for the administration of assets in the payment of debts is very well exposed in the ninth letter, which concludes with a recommendation that there should be but two kinds of debts—those secured by some specific charge, (i. e. a charge on specific property), and those unsecured by any charge or priority.

The two last letters are on appeals in Chancery, and the reformation of criminals.

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* See some observations on the subject in 1 Jur., N. S., part 2, p. 349.

† Mr. W. D. Lewis, however, not only "undertakes" conveyancing, but is well known to be a most learned and accomplished conveyancer.

Correspondence.

TO THE EDITOR OF "THE JURIST."

SIR,—In the article which appeared in your number of the 21st March, respecting the necessity of inrolling conveyances to burial boards, I think you have not given sufficient weight to the opinion of Lord Eldon as opposed to that of Sir John Leach. In *The Attorney-General* v. *Brown* (1 Swanst. 297) his Lordship says, "It seems to have been considered, that because the duty was given by act of Parliament, it could not be a charitable use. If authority was wanted upon that subject, it would be enough for my business to-day to refer to the passage cited from Duke's 'Exposition of the Statute of Elizabeth.' After the fire of London acts of Parliament imposed a duty on coal imported into the city or river, among other purposes, for rebuilding St. Paul's church. Beyond a doubt that was a charitable use. Money given by a private donor for repairing a church or chapel is a charitable use; *and if this is law, there is no reason why money given by the public, if it is applied to a charitable purpose*, should not be equally within the statute of Elizabeth." His Lordship seems here distinctly to repudiate the notion, that because the fund is collected by a compulsory process, and is not given by the contributors with a charitable intent, therefore it does not constitute a charitable fund. The *purpose*, and that alone, is to be looked to. In the subsequent case of *The Attorney-General* v. *The Mayor of Dublin*, Lord Eldon remarked that the case of *The Attorney-General* v. *Heelis* was not reconcileable with the principle of the decision in *The Attorney-General* v. *Brown*, and that the research which had been made confirmed the latter case rather than the former. (See 1 Bligh, N. S., 335).

The judgment of Sir John Leach in *The Attorney-General* v. *Heelis* is not satisfactory, for he admits, that under a gift by Parliament of a duty on coal to rebuild St. Paul's, the proceeds of the duty formed a charitable fund; while he subsequently denies that the proceeds of a duty levied on the inhabitants of a town in respect of their property, and to be applied in paving and lighting the town, formed such a fund. He calls the first a *gift* by Parliament; but surely the second is a gift by Parliament also, and can it make any difference whether the object was to build a church or erect gas-lamps?

So far I have assumed that the judgment of Sir John Leach bears the construction you have put upon it; but, in fact, he only denies that rates levied for paving and lighting a town form a charitable fund "to be administered by this Court." Thus, poor rates (the fund from which burial boards pay for their ground) are a charitable fund, though they are not, I presume, subject to be administered by the Court of Chancery.

To say that to bring any given case within the 9 Geo. 2, c. 36, the money must be contributed not only for a charitable purpose, but with a charitable intent, does not appear consistent with the spirit of the act, the object of which was, not to check charitable intentions, but to check the purchase of land for charitable purposes; otherwise why impose a restriction on the mode of conveyance by a vendor who could have no charitable intent? The provision in the burial acts as to the form of conveyance necessarily repeals so much of the act of Geo. 2 as requires a conveyance to be by indenture, but cannot of itself repeal the other provisions of that act; and any argument derived from this source may be fairly met by the stat. 7 & 8 Vict. c. 101, s. 73, which provides that conveyances of sites for workhouses need not be made conformably to the stat. 9 Geo. 2, c. 36, and shews the opinion of the Legislature on this subject.

If inrolment is held not necessary, it ought to be on the ground that the board can charge fees for burial. Everybody buys the right of interment, and the case becomes that of an ordinary cemetery company, who merely borrow the necessary capital from the poor rates, and ultimately repay it out of the profits of the burial-ground.

Lincoln's Inn, March 26, 1857. E. P. W.

REGULA GENERALIS.

General Order made in pursuance of the Bankruptcy Act, 1854.

The Right Hon. Robert Monsey Lord Cranworth, Lord High Chancellor of Great Britain, by and with the advice and assistance of the Right Hon. the Lord Justice Sir James Lewis Knight Bruce, the Right Hon. the Lord Justice Sir George James Turner, Edward Holroyd, Esq., and Edward Goulburn, Serjeant-at-Law, two of the Commissioners of her Majesty's Court of Bankruptcy, doth hereby, in pursuance and execution of the powers of an act of Parliament passed in the session of Parliament holden in the seventeenth and eighteenth years of the reign of her present Majesty, intituled "An Act for regulating Appointments to Offices in the Court of Bankruptcy, and for amending the Laws relating to Bankrupts," order and direct that service of all writs, notices, summonses, orders, warrants, rules, documents, and other proceedings not requiring personal service upon the party to be affected thereby, shall be made before seven o'clock in the evening, except on Saturdays, when it shall be made before two o'clock in the afternoon; and if made after seven o'clock in the evening on any day except Saturdays, the service shall be deemed as made on the following day; and if made after two o'clock in the afternoon on Saturday, the service shall be deemed as made on the following Monday. And doth further order and direct, that the offices of the chief registrar, accountant, and master of the Court of Bankruptcy in London, and the offices of the District Courts of Bankruptcy, shall be closed on Saturdays at two o'clock in the afternoon. This Order is to come into operation on the 15th day of April, 1857.

March 24, 1857.

EXTRACTS FROM THE REPORT OF THE REGISTRATION OF TITLE COMMISSION.

(*Concluded from p.* 122).

"The importance of maps as forming the best basis for a scheme of registration has been long and often and ably discussed. In 1832 the Real Property Commissioners reported against such a use of maps. In 1850 the Registration Commissioners reported in favour of it; but two of that body, Mr. Humphry and Mr. Broderip, expressed their dissent. In 1850 a bill for the registration of assurances, founded on the report of the last-mentioned commissioners, which recommended maps, was brought into the House of Lords, and referred to a select committee. The select committee, admitting that maps were in theory to be preferred, came at length to the conclusion, that, considering the occasional inaccuracy of the tithe maps, the insufficient scale of the then existing Ordnance maps, and the great delay and expense of a new survey, it would be inexpedient to propose their compulsory adoption in the first instance, but that means should be reserved of introducing them as opportunity occurred. The bill, in consequence, came down to the House of Commons without that portion of it which was founded on the recommendation of maps by the commissioners. In the House of Commons the question was slightly re-opened in 1851, but no opinion was expressed. Under these circumstances we have felt it our duty to take further evidence on it; and we have arrived at the conclusion that a compulsory plan for mapping the whole country would not be attended with sufficient advantages to outweigh the inconveniences which must necessarily attend it. The first inconvenience would be the unavoidable delay that must occur in remapping the kingdom. There are no public maps now in existence which would be sufficient to answer all the purposes of registration. The present scale of the Ordnance maps in England would not be large enough for minute subdivisions of common fields, and for a clear delineation of town districts. The tithe maps would determine the question of parochial boundaries, but not the boundaries of individual proprietors. Such maps might certainly be useful to a considerable extent, but for registration purposes there must be new surveys; the revision of existing maps must be made, and it would probably require two years before the map for any one county could be got ready. Again: the expense would be very considerable. Mr. Blamire says that the maps and references in the Tithe Office have already cost as much as 2,500,000*l.*; and Colonel Dawson estimates at upwards of 1,000,000*l.* the cost of compiling a map of the entire kingdom, partly from maps scientifically constructed, and partly from the revision of other maps to be adopted for the purposes of registration; and this would be independent of the expense which would have to be incurred in settling the boundaries between different proprietors, if such a measure were considered desirable. It appears to us, however, that to compel the formation of a general map of England, with the view of making it evidence of the boundaries of properties, would of necessity open a vast field for litigation and dispute. Questions of disputed boundaries which are now allowed to remain in abeyance must then be settled. The trouble and annoyance thereby occasioned would be harassing in the extreme; and these evils would fall more heavily on small owners than on large proprietors. Every person must defend his extreme rights, for when once the register came into operation they would be barred for ever. To meet so many and such serious inconveniences the corresponding advantages should be clear and positive, certain and immediate; but we doubt very much whether this would be the case under a compulsory obligation to map the boundaries of every proprietor.

"For the reasons before mentioned, we cannot recommend that the compulsory formation of a general map should constitute the basis of a system of registration of title. At the same time we are not insensible to the numerous advantages which a pictorial representation of property and its boundaries must always have as compared with a mere verbal description of it. The verbal description can only state that it contains so many acres, roods, and perches; that it bears such and such names; that it is occupied by this or that tenant; and that it is bounded on the north, south, east, and west by certain specified roads, rivers, buildings, or lands belonging to or in the occupation of certain specified parties. But such a description is not necessarily sufficient to identify the property, or to ascertain correctly its form or shape, or whether the fences or boundary lines are crooked or straight, or to determine what is the general or particular direction of it with regard to the points of the compass. These are matters which a map, constructed upon a basis of triangulation, and according to the principles of science, can best supply as permanent landmarks, accurate at the time when they are originally made, and capable of being restored to their true positions, whatever may be the casual or accidental circumstances by which they may have been disturbed. Although, therefore, for the reasons above given, the compulsory formation of a public map would be open to serious and grave objections, yet the use of a map properly authenticated for each individual estate, and made on a uniform scale, would probably furnish, together with the usual verbal description, the best means of identifying the property, and the clearest mode of indexing correctly the registered title to it. One of the witnesses has observed in his evidence, that 'a map is a good servant, but a bad master; very useful as an auxiliary, but very mischievous if made indispensable.' In this opinion we concur; and while we would deprecate the adoption of maps in any mode, or for any purpose, which would make them binding upon or conclusive of the rights of parties, we would encourage and even require their use in each case, so as to obtain a description and admission of the particular property which the party applying intends to have registered. In furtherance of the same purpose a discretionary power should be given to the registrar for determining how far and under what circumstances any existing public maps might be made available, as well as the scale upon which either the private maps or copies of the public ones should be prepared and employed."

"The remaining question is, whether the register shall be a metropolitan or provincial one, or, in other words, whether it shall be central or local, or both central and local? Or, to put the question more accurately, shall there be—

"One central register for the whole kingdom; or,

"Several county registers for the several subdivisions of the whole kingdom; or,

"One central register for the whole kingdom, with branch offices in the principal towns throughout the kingdom?

"A central register for the whole kingdom would, of course, be established in the metropolis; county registers would probably be in the largest, or most central, or most generally accessible town in the county.

"The advantages of a metropolitan register over county registers have been stated to be the following:—

"1. Under a metropolitan register a uniformity of system throughout the whole kingdom would be established, which would hardly be attainable, or at any rate maintained, in several county registers.

"2. One metropolitan register would be much less expensive than from fifty to sixty county registers; for in each county registry there would necessarily be an efficient registrar, and a deputy competent to discharge the duties of the registrar during his absence from illness or other inevitable cause.

"3. One metropolitan register, under the superintendence of a registrar of high professional attainments and experience, and efficient deputies and subordinate officers, would inspire more confidence on the part of the landowners of the country than several county registers would do.

"4. The registers of judgments, bankruptcies, and insolvencies must necessarily be metropolitan.

"5. The suggested system of distringas would be more efficiently worked, and uniformity of practice would be more securely preserved, in one metropolitan register than in numerous county registers.

"6. A metropolitan register would be less expensive to parties employing solicitors resident in the country. Every solicitor in the country, without exception, has an agent in London, with whom he is in daily confidential unreserved communication, and no additional expense, or the smallest additional expense possible, is occasioned to the client by reason of the employment of a London agent. The remuneration of a solicitor is on a fixed scale; and as to the business transacted by the agent, the remuneration is divided between the agent and country solicitor. They are, as regards the particular transaction, very much in the position of partners residing in different towns. Through his London agent, therefore, the country solicitor might obtain from the metropolitan registry all the required information at the same cost to the client as if the register were in the town where the country solicitor practised. But the country solicitor rarely has a confidential agent in any other place than London, and if he does not reside in the register town, he would be obliged to employ a local solicitor, or to make a journey to the registry, for the purpose of search or registration, and it would often happen, where secresy was desired, that he would find it his duty to incur the expense of a journey.

"7. With county registers it would constantly occur, that solicitors in different parts of the country, as well as solicitors in the metropolis, would have no knowledge of the solicitors in the particular town where the county register might be. Many of the solicitors in large practice in London have clients who are landowners in many of the counties in England, and they would be much inconvenienced and embarrassed by a system of county registers.

"8. The ordinary communication between London and country towns, to say nothing of the telegraph, is often much more rapid and regular than between one country town and another, and of course the postage of letters is the same, whatever the distance may be.

"It has, on the other hand, been urged that the registrar ought to be charged with the duty of ascertaining the accuracy of the description and identity of the land, and that to ensure this a local register would be indispensable, and that a union of the two systems would be at once practicable and desirable.

"With reference, therefore, to the question whether the office should be a single metropolitan office, or whether it should be subdivided into various provincial offices, our opinion is, that both suggestions may be combined with great advantage. The principal office should be situated in London, but local or district registries should be also established."

PROSPECTUS OF THE LECTURES

To be delivered during the ensuing Trinity Educational Term by the several Readers appointed by the Inns of Court.

CONSTITUTIONAL LAW AND LEGAL HISTORY.

The Public Lectures to be delivered by the Reader on Constitutional Law and Legal History will comprise the following subjects:—

The Reign of Anne, and the Character of the Government of George I and George II—The Progress of our Jurisprudence—The State Trials, and the Proceedings of Parliament during that Period.

In his Private Classes the Reader will proceed from the Reign of William III down to the year 1782.

Books:—Millar's View of the English Constitution—The State Trials of the Period—Statute Book—Rapin's History—Hallam's Constitutional History.

EQUITY.

The Reader on Equity proposes to deliver, during the ensuing Educational Term, Twelve Lectures on the following subjects:—

I.—On the Doctrine of Performance and Satisfaction.

II.—On the Implied Substitution of one Gift for another.

III.—On Election.

IV.—On the Jurisdiction exercised by Courts of Equity concurrently with Courts of Law, and on the Amalgamation of Common Law with Equity.

V.—On the Jurisdiction of Equity in Matters of Account.

VI.—On Partnership.

VII.—On Frauds remediable in Courts of Equity.

The Reader will continue with his Senior and Junior Classes the general course of Equity already commenced. He will also continue in the Senior Class, and commence in the Junior, to explain the leading Rules of Pleading in Equity from the work of Lord Redesdale.

Law of Real Property, &c.

The Reader on the Law of Real Property, &c. proposes to deliver, in the ensuing Educational Term, a course of Twelve Public Lectures on the following subjects:—

I.—The Devolution and Transmission of Powers and Trusts for Sale.

II.—The Law of Mortmain.

III.—Attendant Terms; the Satisfied Terms Act, 8 & 9 Vict. c. 112.

IV.—The Statute 8 & 9 Vict. c. 106.

V.—The Law of Dower.

VI.—The Apportionment of Rents and Annuities.

In his Private Classes the Reader on Real Property Law will refer more particularly to the Leading Cases cited in the Public Lectures. He will also discuss the Forms of Requisitions to be made on the investigation of Titles shewn upon abstracts delivered by Vendors to Purchasers, and the Nature of the Evidence required by Conveyancers in proof of such Titles.

Jurisprudence and the Civil Law.

The Reader on Jurisprudence and the Civil Law proposes, during the ensuing Educational Term, to deliver Twelve Public Lectures on the following subjects:—

The Sources of Personal Law—The Early History of the Law of Property—The Early History of the Law of Contract, and the Mature Jurisprudence of Rome on the subject of Contract—The Law of Testaments, its Ancient and Modern History—The Roman Law of Civil Process.

The Reader will, with his Private Class, consider the subject of Roman Law in its bearing on Modern Jurisprudence, using as his text-book the Systema Juris Romani Hodie Usitati of Mackeldey, (Leipsig, 1847).

Common Law.

The Reader on Common Law proposes to deliver, during the ensuing Educational Term, Twelve Public Lectures, of which Three (prior to the recess) will be in continuation of the subject treated of in the preceding Course, and the Nine remaining Lectures will be devoted to Criminal Law and matters therewith connected. The programme of the Lectures will be as under:—

Lectures I to III will treat of Mercantile Law generally, Mercantile Persons, and Instruments.

Lecture IV will be introductory to the subject of Criminal Law.

Lectures V to VII will treat of Proceedings at the Police Court or before the Committing Magistrate—Sir J. Jervis's Acts—Superior Courts of Criminal Jurisdiction—The Indictment, its office and nature.

Lecture VIII.—The leading provisions of Lord Campbell's Acts will herein be considered and explained.

Lectures IX to XII will be occupied in analysing and defining offences of ordinary occurrence triable at Quarter Sessions and the Assizes, and in directing attention to the rules of evidence appropriate to their investigation.

With his Class the Reader on Common Law will examine minutely the subjects above specified, illustrating them by reference to the most important recent cases, and to the following works:—Smith's Mercantile Law and Leading Cases; Archbold's Criminal Pleading, by Welsby; Greaves's edition of Lord Campbell's Acts; and Taylor on Evidence, 2nd ed.

By order of the Council,
(Signed) Francis Whitmarsh,
Chairman (pro tem.)

Court Papers.

EQUITY SITTINGS, EASTER TERM, 1857.

Court of Chancery.

Before the Lord Chancellor.

At Westminster.

Wednesday, *April* 15 Appeal Motions and Appeals.

At Lincoln's Inn.

Thursday	16	Appeals.
Friday	17	
Saturday	18	
Monday	20	
Tuesday	21	
Wednesday	22	
Thursday	23	Appeal Motions and Appeals.
Friday	24	Appeals.
Saturday	25	
Monday	27	
Tuesday	28	
Wednesday	29	
Thursday	30	Appeal Motions and Appeals.
Friday	*May* 1	Appeals.
Saturday	2	
Monday	4	
Tuesday	5	
Wednesday	6	
Thursday	7	
Friday	8	Appeal Motions and Appeals.

Before the Lords Justices.

At Westminster.

Wednesday, *April* 15 Appeal Motions.

At Lincoln's Inn.

Thursday	16	Appeal Motions and Appeals.
Friday	17	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Saturday	18	Appeals.
Monday	20	
Tuesday	21	
Wednesday	22	
Thursday	23	Appeal Motions and Appeals.
Friday	24	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Saturday	25	Appeals.
Monday	27	
Tuesday	28	
Wednesday	29	
Thursday	30	Appeal Motions and Appeals.
Friday	*May* 1	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Saturday	2	Appeals.
Monday	4	
Tuesday	5	
Wednesday	6	
Thursday	7	
Friday	8	Appeal Motions and Appeals.

Before the Right Hon. the Master of the Rolls.

At Westminster.

Wednesday, *April* 15 Motions.

At Chancery-lane.

Thursday	16	General Petition-day.
Friday	17	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Saturday	18	
Monday	20	
Tuesday	21	
Wednesday	22	
Thursday	23	Motions.
Friday	24	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Saturday	25	
Monday	27	
Tuesday	28	
Wednesday	29	
Thursday	30	Motions.

Friday	*May* 1	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Saturday	2	
Monday	4	
Tuesday	5	
Wednesday	6	
Thursday	7	General Petition-day.
Friday	8	Motions.

Short Causes, Short Claims, Consent Causes, Unopposed Petitions, and Claims every Saturday; the Unopposed Petitions to be taken first.

Notice.—Consent Petitions must be presented, and copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard.

Before Vice-Chancellor Sir Richard T. Kindersley.

At Westminster.

Wednesday,	*April* 15	Motions.

At Lincoln's Inn.

Thursday	16	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Friday	17	Petitions (unopposed first).
Saturday	18	Short Causes and Claims, and General Paper.
Monday	20	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	21	
Wednesday	22	
Thursday	23	Motions and General Paper.
Friday	24	Petitions (unopposed first).
Saturday	25	Short Causes and Claims, and General Paper.
Monday	27	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	28	
Wednesday	29	
Thursday	30	Motions and General Paper.
Friday	*May* 1	Petitions (unopposed first).
Saturday	2	Short Causes and Claims, and General Paper.
Monday	4	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	5	
Wednesday	6	
Thursday	7	
Friday	8	Motions and General Paper.

Before Vice-Chancellor Sir J. Stuart.

At Westminster.

Wednesday,	*April* 15	Motions.

At Lincoln's Inn.

Thursday	16	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Friday	17	Petitions and General Paper.
Saturday	18	Short Causes and Claims, and General Paper.
Monday	20	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	21	
Wednesday	22	
Thursday	23	Motions and General Paper.
Friday	24	Petitions and General Paper.
Saturday	25	Short Causes and Claims, and General Paper.
Monday	27	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	28	
Wednesday	29	
Thursday	30	Motions and General Paper.
Friday	*May* 1	Petitions and General Paper.
Saturday	2	Short Causes and Claims, and General Paper.
Monday	4	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	5	
Wednesday	6	
Thursday	7	
Friday	8	Motions.

Before Vice-Chancellor Sir W. P. Wood.

At Westminster.

Wednesday,	*April* 15	Motions.

At Lincoln's Inn.

Thursday	16	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Friday	17	
Saturday	18	Petitions, Short Causes, Claims, and General Paper.
Monday	20	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	21	
Wednesday	22	
Thursday	23	Motions and General Paper.
Friday	24	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Saturday	25	Petitions, Short Causes, Claims, and General Paper.
Monday	27	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	28	
Wednesday	29	
Thursday	30	Motions and General Paper.
Friday	*May* 1	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Saturday	2	Petitions, Short Causes, Claims, and General Paper.
Monday	4	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	5	
Wednesday	6	
Thursday	7	
Friday	8	Motions and General Paper.

Notice.—Claims will be taken in precedence of the General Paper every Petition-day.

COMMON-LAW SITTINGS, IN AND AFTER EASTER TERM, 1857.

Court of Queen's Bench.

In Term.

MIDDLESEX.	LONDON.
1st sitting .. Thurs., *April* 16	1st sitting, Wednes., *April* 22
2nd sitting .. Friday 24	2nd sitting, Wednesday .. 29
3rd sitting .. Friday .., *May* 1	
For undefended causes only.	

After Term.

Saturday .... *May* 9 | Wednesday .... *May* 13

The Court will sit at ten o'clock every day.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

Court of Common Pleas.

In Term.

MIDDLESEX.	LONDON.
Monday .... *April* 20	Thursday .... *April* 23
Monday 27	Thursday 30

After Term.

Saturday .... *May* 9 | Wednesday .... *May* 13

The Court will sit during and after term at ten o'clock.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

Exchequer of Pleas.

In Term.

MIDDLESEX.	LONDON.
1st sitting, Thursd., *April* 16	1st sitting, Wednes., *April* 22
2nd sitting, Friday 24	2nd sitting, Wednesday ... 29
3rd sitting, Friday ... *May* 1	

After Term.

Saturday .... *May* 9 | Wednesday .... *May* 13

The Court will sit during and after term at ten o'clock.

The Court will sit in Middlesex, at Nisi Prius, in term, by adjournment from day to day, until the causes entered for the respective Middlesex Sittings are disposed of.

In each of the London Sittings during term there will be two days for the trial of causes.

nesbury, Staffordshire, builder, April 23 at half-past 10, Birmingham.—*John Wm. Langridge*, Birmingham, staymaker, April 23 at half-past 10, Birmingham.—*Jonathan Wright Horsfall*, Leeds, commission agent, April 28 at 11, Leeds.—*J. Dickinson*, Harrogate, Yorkshire, lodging-house keeper, April 28 at 12, Leeds.

To be granted, unless an Appeal be duly entered.

John Smith, Sheerness, Kent, dealer in drugs.—*William Hugh Russell*, Strand, blacking manufacturer.—*Wm. Wood*, Aldersgate-street, City, commission agent.—*James Barlow*, Bolton-le-Moors, Lancashire, paperhanger.

Petition Annulled.

Henry Blyton, York-terrace, Ratcliffe, Middlesex, clothier.

Partnerships Dissolved.

Edward Swinborne Chalk and *Andrew Meggy*, Chelmsford, Essex, attornies and solicitors.—*Frederick Bond* and *Arthur Barnes*, Lichfield, attornies-at-law and solicitors.—*John Unett* and *George Unett*, Birmingham, attornies and solicitors.

Scotch Sequestrations.

John Robert Finlay, Glasgow, merchant.—*Wm. & Joseph Broadbent, junior, & Co.*, Glasgow, wool merchants.

Tuesday, *March* 31.

Bankrupts.

ROBERT CLINCH, Salisbury, Wiltshire, livery-stable keeper, April 15 at half-past 1, and May 12 at 1, London: Off. Ass. Graham; Sols. Kelsey, Salisbury; Bothamley & Freeman, 39, Coleman-street, London.—Pet. f. March 30.

HENRY FAITHFULL, Woodstock-road, East India-road, Blackwall, master mariner, (formerly of Tonbridge-place, New-road, shipowner, and afterwards trading with Gustav Droege and Ernest Walton Ledger, at Melbourne, Victoria, merchants, under the style or firm of Droege, Faithfull, & Ledger), April 17 at 1, and May 12 at 12, London: Off. Ass. Edwards; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. March 27.

JONATHAN HANBURY, Matfield-green, Brenchley, Kent, grocer, April 20 at half-past 12, and May 18 at 11, London: Off. Ass. Pennell; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, Bucklersbury.—Pet. f. March 27.

JOHN TIMMIS, Lelleshall, Shropshire, timber merchant, April 17 and May 1 at half-past 11, Birmingham: Off. Ass. Bittleston; Sol. Knight, Birmingham.—Pet. d. March 24.

JOHN RICHARDS, Aberystwith, Cardiganshire, draper, April 20 and May 12 at 11, Bristol: Off. Ass. Miller; Sols. Brittan & Sons, Bristol.—Pet. f. March 27

HENRY MUNDY, Gloucester, ironmonger, April 17 and May 12 at 11, Bristol: Off. Ass. Miller; Sols. Brittan & Son, Bristol; Willmott, 82, High-street, Southwark.—Pet. f. March 20.

SARAH ROACH, Merthyr Tydvil, Glamorganshire, carrier, April 17 and May 12 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan & Girling Bristol.—Pet. f. March 27.

URIAH WIMPENNY, Holme Bridge, Almondbury, Yorkshire, woollen-cloth manufacturer, April 17 and May 8 at 11, Leeds: Off. Ass. Young; Sols. Floyd & Learoyd, Huddersfield; Bond & Barwick, Leeds.—Pet. d. and f. March 30.

JOHN HANSON and **JAMES WALKER**, Sheffield, coach builders, April 18 and May 9 at 10, Sheffield: Off. Ass. Brewin; Sols. Smith & Burdekin, Sheffield.—Pet. d. and f. March 25.

RICHARD JONES, Newtown, Montgomeryshire, flannel manufacturer, April 16 and May 11 at 11, Liverpool: Off. Ass. Morgan; Sol. Jones, Newtown, Montgomeryshire.—Pet. f. March 30.

Meetings.

Wm. Edwards, High-street, Wapping, porter merchant, April 17 at half-past 12, London, aud. ac.—*Henry Samuel Parker*, Birmingham, licensed victualler, April 17 at half-past 11, Birmingham, aud. ac.—*J. W. Langridge*, Birmingham, staymaker, April 17 at half-past 11, Birmingham, aud. ac.; April 24 at 11, div.—*Alfred Blackmore*, High-street, Shoreditch, hosier, April 23 at half-past 2, London, div.—*John Overbury*, Frederick's-place, Old Jewry, City, woollen warehouseman, April 22 at half-past 11, London, fin. div.—*H. Wright*, Narrow-street, Limehouse, miller, April 21 at 11, London, div.—*Wm. Henry Woollett* and *John Frederick S. Woollett*, Lime-street-square, City, insurance agents, April 23 at 11, London, div. sep. est. of *Wm. Henry Woollett*.—*John Barfoot*, North Stoneham, Hampshire, cattle salesman, April 23 at half-past 2, London, div.—*Wm. Eames Heathfield* and *Wm. Aburrow*, Princes-square, Finsbury, manufacturing chemists, April 21 at half-past 2, London, div.—*Samuel King*, Buckland, and *Charles King*, Draycott Moor, Berkshire, wheelwrights, April 21 at half-past 12, London, div. joint and sep. ests.—*Francisco de Salvo*, Leadenhall-street, City, merchant, April 22 at 2, London, div.—*Edward Seppings*, Cromer, Norfolk, licensed victualler, April 21 at 1, London, fin. div.—*John Henry Stephens*, Great Wild-street, Lincoln's-inn-fields, engraver, April 21 at 11, London, div.—*Hensard Jackson Bridges*, Wandsworth-road, Surrey, and Stowmarket, Suffolk, brewer, April 21 at 2, London, fin. div.—*Thomas Edwards*, Eversholt-street, Oakley-square, St. Pancras, china dealer, April 21 at 1, London, div.—*Wm. Peach*, Derby, coal merchant, April 28 at half-past 10, Nottingham, aud. ac. and div.—*Jos. Spooner Taylor* and *Jos. Marsden*, Derby, iron-founders, April 28 at half-past 10, Nottingham, div.—*Reuben Hemingway*, Liverpool, merchant, April 23 at 11, Liverpool, div.—*Gilbert Hodgson* and *W. Atcheson*, Sunderland, Durham, timber merchants, April 24 at 12, Newcastle-upon-Tyne, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Ados Pervanoglu, Union-court, Old Broad-st., City, merchant, April 23 at 2, London.—*Wm. Kingston*, Bridge-road, Lambeth, draper, April 22 at 2, London.—*W. Bryant*, Stratford, Essex, shoemaker, April 23 at 2, London.—*Wm. Pilley*, Aldermanbury, City, tailor, April 23 at 11, London.—*Wm. Parker Hammond*, Scott's-yard, Bush-lane, City, shipowner, April 28 at half-past 1, London.—*S. Gifford*, Mark-lane, City, sail-cloth merchant, April 22 at 1, London.—*Richard Harrison* and *John James Cole*, Twig Folly, Bethnal-green, barge builders, April 23 at 2, London.—*Samuel Clare*, Ashton-under-Lyne, Lancashire, grocer, April 21 at 12, Manchester.—*James Gilbert*, Manchester, contractor, April 21 at 12, Manchester.—*Hyam Levi*, Liverpool, clothier, April 23 at 11, Liverpool.—*Wm. Peach*, Derby, coal merchant, April 21 at half-past 10, Nottingham.

To be granted, unless an appeal be duly entered.

Nathaniel Solomon, Euston-place, New-road, merchant.—*John Richard Dawson*, West Cowes, Isle of Wight, hotel-keeper.—*James Steverson*, Wandsworth-road, Surrey, brewer.—*David Shove*, Croydon, Surrey, tallow chandler.—*James Gilliver Glaze*, Serle's-place, Middlesex, law stationer.—*Chas. Pawley*, Stock Orchard-crescent, Holloway, Middlesex, and Harders-road, Peckham, Surrey, builder.—*George Hawkins*, Eden-place, Old Kent-road, Surrey, oilman.—*George Davey*, Murray-street, New North-road, plumber.—*William Gaskin*, Croydon, Surrey, builder.—*Thomas Henry Tripney*, Perranporth, Cornwall, woollendraper.—*John Doughty*, Castle Donington, Leicestershire, builder.—*Joseph Gelsthorp*, Nottingham, builder.—*Thomas Pinches*, Walsall, Staffordshire, builder.—*Joseph Henry Clarke*, Leicester, hatter.—*Edward Jenkins*, Birmingham, draper.—*Thomas Hassall*, Shenstone, Staffordshire, builder.—*Knowlton Wilson*, Sheffield, Yorkshire, surgeon.

Petition Annulled.

George Baskervalle, Talk-on-the-Hill, Staffordshire, innkeeper.

Partnership Dissolved.

John G. Noble and *Montague R. Todd*, New-inn, Strand, attornies and solicitors.

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Bankrupts.

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JOSEPH OSWALD ROBSON, Castle-street East, Oxford-street, carpenter, April 22 and May 18 at 12, London: Off. Ass. Nicholson; Sol. Chidley, 10, Basinghall-street.—Pet. f. March 31.

JOSEPH WILLIAMS, Rochester-terrace, Vauxhall-bridge-road, Surrey, tailor, April 15 at 2, and May 12 at 1, London: Off. Ass. Stansfeld; Sol. Sorrell, 60, Mark-lane.—Pet. f. April 2.

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JOHN JOBSON, Derby, stove-grate manufacturer, April 21 and May 12 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Helm, Derby.—Pet. d. March 31.

THOMAS MARRIOTT, Nottingham, tailor, (trading under the style or firm of Thomas Marriott & Co.), April 21 and May 12 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Cowley, Nottingham.—Pet. d. March 31.

JOHN ROBINSON and CHARLES ROBINSON, Leeds, woollen-cloth merchants, April 17 and May 8 at 11, Leeds: Off. Ass. Young; Sol. Naylor, Leeds.—Pet. d. March 21; f. March 23.

ROBERT HOFF BRYAN, Lincoln, watchmaker, April 22 and May 27 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sol. Brown, Lincoln.—Pet. d. April 1.

WILLIAM TREVETHICK, Lincoln, timber merchant, April 29 and May 27 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sol. Tweed, Lincoln.—Pet. d. March 31.

Meetings.

John Peter M'Morland Greig, Bartlett's-buildings, Holborn, and Wheatsheaf-yard, Farringdon-street, cabinet maker, April 23 at 11, London, pr. d.—*Henry Gander*, High-street, Borough, licensed victualler, April 23 at 1, London, last ex.—*Charles Cooper*, High-street, Wandsworth, Surrey, grocer, April 21 at 12, London, last ex.—*Wm. Bryant*, Stratford, shoemaker, April 23 at 2, London, aud. ac.—*Robert Henry Bollin*, King's Lynn, Norfolk, carriage builder, April 22 at half-past 12, London, aud. ac.; April 24 at 11, div.—*John Adnam*, Old Fish-street, City, wine merchant, April 22 at 12, London, aud. ac.—*Alfred Blackmore*, High-street, Shoreditch, hosier, April 22 at 11, London, aud. ac.—*J. Cotching*, Hail Weston, Huntingdonshire, farmer, April 16 at 12, London, aud. ac.—*Joshua Downing Stanbury*, Richmond, Surrey, draper, April 16 at 11, London, aud. ac.—*Francis Nicholls*, Thornhill-crescent, Islington, merchant, April 16 at 12, London, aud. ac.—*Robert Henry Adamson*, John-street, Berkeley-square, wine merchant, April 16 at 11, London, aud. ac.—*John Beckwith Towse*, Lawrence Pountney-lane, London, shipowner, April 16 at half-past 11, London, aud. ac.—*Edward Von Dadelszen*, Liverpool, metal broker, April 15 at 11, Liverpool, aud. ac.; April 27 at 11, div.—*Chanon Searle*, Warwick-street, Pimlico, baker, April 24 at 12, London, div.—*Bernard Hagen*, Aldermanbury, City, merchant, April 24 at 12, London, div.—*Geo. Tapling*, Wood-street, Cheapside, carpet warehouseman, April 27 at 2, London, final div.—*Samuel Hook*, Tovill, near Maidstone, Kent, paper manufacturer, April 24 at half-past 2, London, div.—*John Prout D. Stephens*, Brabant-court, Philpot-lane, City, wine merchant, April 27 at 11, London, div.—*W. Tingey*, Tottenham-court-road, warehouseman, April 24 at 12, London, div.—*William Reeve*, Albion-street, Caledonian-road, engineer, April 24 at 2, London, div.—*Edward Blakely*, Conduit-street, Regent-street, Westminster, and Norwich, linendraper, April 25 at half-past 11, London, div.—*Edward Over*, Barossa-terrace, Cambridge-road, Bethnal-green, oilman, April 25 at half-past 11, London, div.—*Wm. Joseph White* and *Lacey Bathurst*, Regent-street, Westminster, drapers, April 25 at 11, London, div.—*George Woodall*, Carlisle, Cumberland, grocer, April 29 at half-past 11, Newcastle-upon-Tyne, div.—*Wm. Doeg* and *John Skelton*, Newcastle-upon-Tyne, timber merchants, April 29 at 11, Newcastle-upon-Tyne, div. joint est.; at half-past 11, div. sep. est. of *Wm. Doeg*.—*John Allott*, Sandal Magna, Yorkshire, banker, April 24 at 11, Leeds, div.—*John Scaife Hodge*, Pocklington, Yorkshire, miller, April 24 at 11, Leeds, div.—*Wm. Potter*, Ellerburn, Yorkshire, grocer, April 24 at 11, Leeds, div.—*George Ridge* and *Thomas Jackson*, Sheffield, stationers, April 25 at 10, Sheffield, div.—*George O. Brown*, Sheffield, timber merchant, April 25 at 10, Sheffield, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Eleanor Porter, Newmarket, Suffolk, grocer, April 25 at 11, London.—*David Barclay*, Richardson-street, Long-lane, Bermondsey, Surrey, leather manufacturer, April 25 at half-past 11, London.—*James Henry Smith*, Oxford-street, and Connaught-terrace, Hyde-park, corset maker, April 25 at half-past 11, London.—*Henry Jewell*, High-street, Shadwell, and St. George's-street East, clothier, April 24 at 11, London.—*Richard Baker*, Lime-street, City, merchant, April 25 at 11, London.—*Richard Carpenter*, Museum-street, Bloomsbury, licensed victualler, April 25 at 1, London.—*Adolphus Scherman*, George-street, Minories, and New Broad-street, City, general merchant, April 25 at 12, London.—*Walter Westrup*, New-crane, Shadwell, Middlesex, and Northfleet, Kent, miller, April 28 at 11, London.—*John Peter Knight*, Hibernia-chambers, Southwark, Surrey, and York-st., Pentonville, Middlesex, hop merchant, April 27 at 11, London.—*Joseph T. Lawrence*, Shoreditch, upholsterer, April 27 at half-past 12, London.—*John Oldham*, Long-acre, currier, April 27 at half-past 1, London.—*George Woodall*, Carlisle, Cumberland, grocer, April 29 at half-past 11, Newcastle-upon-Tyne.—*Robert Prudhoe*, Durham, grocer, April 24 at 11, Newcastle-upon-Tyne.—*John Davison*, Kingston-upon-Hull, anchor maker, April 29 at 12, Kingston-upon-Hull.—*Wm. H. Dickinson*, Sheffield, table-knife manufacturer, April 25 at 10, Sheffield.—*Frederick L. Banks* and *Robert Dawson*, Sheffield, common brewers, April 25 at 10, Sheffield.—*Thos. Skinner*, Sheffield, electro plater, April 25 at 10, Sheffield.

To be granted, unless an appeal be duly entered.

Frederick Futvoye, Regent-street, jeweller.—*Wm. Eames Heathfield* and *Wm. Aburrow*, Princes-sq., Finsbury, manufacturing chemists.—*Frederick J. Clarke*, Clapham, Surrey, baker.

Petition Annulled.

Henry Duckworth, Glen Top Mill, near Newchurch, Forest of Rossendale, Lancashire, cotton spinner.

Partnerships Dissolved.

John G. Noble and *Montague R. Tootal*, New-inn, Strand, St. Clement Danes, attornies and solicitors.—*Alfred Robinson* and *Alfred M. Robinson*, Orchard-street, Portman-square, attornies-at-law, solicitors, and conveyancers.

Scotch Sequestrations.

Andrew F. Boyd, Aberdeen, commission agent.—*James R. Campsie*, Leith, grocer.

Tuesday, *April* 7.

Bankrupts.

SAMUEL RICHARDS, Bedford-square, apothecary, April 17 at 2, and May 19 at 12, London: Off. Ass. Graham; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. Jan. 31.

FREDERICK BLUCHER DOWLAND, Lee, Kent, builder, April 17 and May 19 at half-past 11, London: Off. Ass. Graham; Sol. Stopher, 52, Cheapside.—Pet. f. April 6.

JOHN EASTON, Clapham-road-place, Clapham-road, Surrey, builder, April 17 at half-past 12, and May 22 at 11, London: Off. Ass. Cannan; Sol. Crouch, 8, Gray's-inn-square.—Pet. f. April 6.

CHRISTOPHER HALL, Sun-court, Cornhill, East India merchant, (trading under the style or firm of C. Hall & Co.), April 23 and May 25 at 12, London: Off. Ass. Pennell; Sols. J. & J. H. Linklater & Co., 17, Sise-lane.—Pet. f. April 6.

HENRY BISHOP, Dursley, Gloucestershire, money scrivener, April 17 and May 11 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Girling, Bristol.—Pet. f. April 1.

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THE JURIST.

LONDON, APRIL 11, 1857.

ALTHOUGH, by the dissolution of Parliament, amongst other measures, Lord Brougham's Bill to amend the Law with respect to the Property of Married Women has dropped, yet as it will in all probability be again brought by his Lordship before the Parliament soon about to assemble, we think it right to redeem our promise, made a few numbers back, of noticing the principle of the bill, the provisions by which it is proposed to be carried out, and the probability of its affording a remedy for the defects and injustice of the law as it at present exists. The bill proposes, that in the absence of contract, the real and personal property of a married woman at the time of her marriage, or which should accrue to her during her coverture, including her earnings, and the rents, issues, and profits thereof, should be held by her to her separate use, as if she were a feme sole, and should not be subject to the disposition, control, debts, or engagements of her husband. (Sects. 1, 2).

In respect of such property a married woman is to be liable upon any contracts entered into by her before or during coverture, with full power to give receipts, and she may sue and be sued in her own name alone, as if she were a feme sole, (sect. 3); and decrees, judgments, rules, and orders are to be binding upon her property, as if she were a feme sole. (Sect. 4).

On the other hand, a husband is no longer to be liable in respect of the ante-nuptial debts or contracts of his wife, except to the value or amount of any property of his wife which may have been or be settled upon the husband or the children of the marriage. (Sect. 5).

The property of a married woman is to be liable jointly with her husband's to an execution in any action on their joint contracts, (sect. 6); but a married woman is not to be liable to arrest. (Sect. 7).

A married woman is to have power to dispose of such property during her life or by will, as if she were a feme sole, (sect. 8); but it is to be liable to her debts, contracts, and engagements. (Sect. 9).

In the event of the death of a married woman intestate, the husband is to take the same estate, interest, or distributive share in her real and personal estate as such married woman would have taken had such real or personal estate belonged to her husband, and he had died intestate. (Sect. 10).

Subject thereto, her personal property is to go to her child or children, or if she has none, to the person or persons entitled under the Statutes for the Distribution of Intestates' Estates, as if such married woman had died a feme sole. (Sect. 11).

The act, however, is not to interfere with any settlement, or agreement for a settlement. (Sect. 12).

From this summary of the bill it will be seen that the principle upon which it proceeds is, to give a married woman, in the absence of contract, the same power over her property and earnings as if she were a feme sole; in other words, to put the wife, with respect to her property, and the power of disposing of it, upon a perfect equality with her husband—that is to say, to allow her to enjoy her property in the same mode in which the law now allows him to enjoy his. Whether this be more just, and likely to lead to more beneficial results than the present law, which converts marriage into a species of leonine partnership, in which the husband, retaining his own, absorbs in most cases the whole property of his wife, we will now proceed to examine.

Although Lord Brougham's bill proposes a fundamental alteration in the common law of England, which merges, as it were, the very existence of the wife in that of the husband, rendering her thereby a mere nonentity, it merely adopts principles long acted upon by Courts of equity, which recognise her separate existence, and, where they can, prevent the injustice which the law allows, of the husband taking possession of the property of the wife without insuring her a provision out of it. A Court of equity, however, can only enforce the wife's equity to a settlement out of property coming within its cognisance, and not out of property which can be reached by the husband at law, or which he obtains before proceedings are taken in equity. If, however, the principle upon which equity acts with respect to the wife's equity to a settlement be right, (as it certainly is), it should be applicable to every species of property of the wife, and should not depend upon the mere accident of the property being of a certain nature, or of proceedings having been taken before the husband obtains possession. This Lord Brougham's bill will effect: the wife will in all cases, in the absence of contract, take her own property to her separate use.

A correspondent (ante, p. 68) admits that the proposed alteration would "be well if the law in other respects regarded a married woman as an independent unit." But he adds, "her personal identity is merged in her husband's, and the impossibility of reconciling the possession of property with the condition of a slave has been shewn in the working of the Chancery institution of separate estate. For the evils incident to the separate peculium of married women, the conveyancers, with the sanction of the Chancellors, have contrived a Chancery remedy, in the shape of a restraint on anticipation; but this, at best, is but fetter against fetter, and could not be adapted to such a comprehensive measure as Lord Brougham contemplates."

Again he says—"At present the doctrine of equity gives absolute protection to the reversionary interests of married women in personal property; the husband cannot even beat her out of it."

Now, it is true, that in order to prevent the husband, by his influence, obtaining from his wife the capital of property settled to her separate use, conveyancers have invented, and the Courts of equity sanctioned, the clause which restrains a married woman from aliening the capital or in any way anticipating the income of her separate property. With the law upon this subject, which depends upon contract, Lord Brougham's bill does not meddle; it will remain the same as at present; it deals only with the property of married women not affected by contract, which in nearly all cases now either belongs absolutely to the husband, or may be reduced into possession by him; and the proposed law will, at all events, give the wife the power of saying whether her husband, or her husband's creditors, shall have it or not.

With regard to the objection, that this would be no benefit to the wife—in fact, that she would be either "beaten" or cajoled out of her property by her husband, and that there is an impossibility of reconciling the possession of property with what our correspondent terms the "condition of a slave"—admitting, for the sake of argument, that such is the condition of women in this country, is it not obvious that giving them equal rights of property with their husbands will greatly tend to raise them from that position to be fitting companions to free men, and that in process of time the education of women, in order to fit them for their new rights, will be so much improved that they will be enabled to exercise them in a manner creditable to themselves and beneficial to their families?

With regard to the objection, that under Lord Brougham's bill a married woman will be in a worse position with regard to her reversionary personal property than under the present law, we consider that there is little real weight in it; for although under the proposed law she will have the power of disposition over such property, yet as it is probable that in by far the greater number of cases such power will be exercised for the benefit of herself and her family generally, it will be an improvement upon the present law, which, by an absurd anomaly, prevents married women from dealing with reversionary interests in personalty, while they have full power to do so with reversionary interests in realty.

Another objection was urged to the proposed measure by Lord Campbell in the House of Lords—"it appeared to him to be a very natural question, what was to become of the children of the marriage? Was the wife, for instance, to be committed to prison in case she refused to contribute her proper share to the expense of the ménage?" In answer to the question of the noble Lord, we may observe, that nothing of the kind is proposed, or, as we think, ought to be proposed, to compel the wife to contribute to such expenses, any more than the law now compels the husband to contribute towards them.

According to the present law, however large the income of a husband may be, we are not aware of any law by which his Lordship, as Chief Justice of the Queen's Bench, or any judge of the land, can compel a husband either to educate the children of the marriage or maintain a household in a manner suitable to his rank in life or to the amount of his income. So long as he keeps his family from being chargeable upon the parish, the law cannot compel him to aid his wife in maintaining his family by her in a suitable manner, although she alone may be endeavouring to do so either by her own earnings or out of her separate property.

The proportion of a person's income which he chooses to expend for such purposes is left by the law, and as we think wisely, to the discretion of each individual. It is a duty, no doubt, of every person to educate his children and to maintain his household in a manner befitting his station and income, but that duty is one of imperfect obligation, belonging to the domain of morals rather than of law; and as the law does not enforce it in the case of the husband, why should it enforce it in the case of the wife? In our opinion it should be left equally to the discretion of the wife; and experience, we think, will well warrant us in the assertion, that it will in general be found that the natural feelings of a wife and mother would prompt her to do what is right, without vesting in any Court the power of committing her to prison for refusing to contribute her proper share towards the education or maintenance of the children of the marriage, or towards keeping up her household.

The Lord Chancellor, in his Divorce and Matrimonial Causes Bill, apparently considers that there is no insuperable objection to married women, in certain cases, holding all their property, in the absence of contract, to their separate use; for he proposes, that after a divorce à mensâ et thoro, or a separation of husband and wife by deed inrolled, she should take and dispose of property as a feme sole; and upon her again cohabiting with her husband, "all such property as she may be entitled to when such cohabitation shall take place shall be held to her separate use; and the same shall be settled accordingly, subject, however, to any agreement in writing made between herself and her husband whilst separate." Now, Lord Brougham's bill, as it seems to us, is far preferable, inasmuch as it proposes in all cases, in the absence of contract, to give a married woman the separate use in her own property; whilst the Lord Chancellor makes it a condition precedent to her so enjoying her property that she shall obtain a divorce à mensâ et thoro, or that a deed of separation between husband and wife shall have been duly inrolled.

The proposed law, if it be adopted by our Legislature, will be beneficial rather to the middle and poorer classes than the wealthy; for the latter, by their settlements, make a law for themselves; the former either neglect, or cannot afford, to do so. Above all, it will prevent that scandal to our law, which, in the eloquent language of Lord Brougham, enables a husband, without having "in the least degree helped in their production, and without the delay, the respite of an instant, or one word of notice or warning, or even demand, to seize upon the whole of the earnings of his wife, sweep all away, and leave her, who created the whole, stripped of them to the very last farthing."

◆

The rights of finders of lost property are founded in clear and philosophical principles of jurisprudence. Difficulty is, however, not unfrequently experienced in the practical application of the rules upon this subject, especially when the question arises whether the finder, who has appropriated the goods to his own use, has committed larceny.

Found goods may have been abandoned, lost, or hidden. In each of these cases the rights of the finder will differ.

In the early stages of society the right of property was founded on mere occupancy, which in fact constituted the sole title to it. One who found and took possession of goods, not in the possession of another, became at once the owner by the mere title by occupation. So simple were the ideas of property, that the right apart from the possession was not recognised. In the course of time, however, when the people turned their attention to commerce and a more complete cultivation of the land, these simple and primitive ideas of property of necessity gave way, by common consent, to new and artificial rules, calculated to encourage industry and increase the production of the necessaries and comforts of life, and the title by occupation speedily became extinct, except in the few cases which form the subject of the present article, and which we will now proceed to discuss.

When the owner *abandons* goods with the intention of entirely relinquishing them, he becomes at once divested of all property therein, and, except in the case of abandonment in favour of particular persons, they become publici juris, and liable to become the property of the first person who takes possession. Where one casts a purse into the highway with the intention of *throwing it away*, the first who obtains possession becomes the owner, according to the maxim, "Quod ante nullius est, id naturali ratione occupanti conceditur."

When, however, goods have been casually lost by the owner, and there has been no intention on his part of relinquishing them, the property therein does not pass from him, nor can any right as against him be acquired by the finding and taking possession. Moreover, the finder of goods, by taking possession of them, places himself under certain obligations to the owner in respect of them. He is under no obligation to take possession, but if he does he becomes by operation of law a quasi gratuitous bailee of them for the real owner. It probably would not be correct in any sense to say that this obligation arises ex contractu. It may, however, be laid down that a finder taking possession would be placed in the same situation as to his obligation to take care of the property as a gratuitous depository ex contractu. (*Isaac* v. *Clarke*, 2 Bulst. 306; Story's Bailm. s. 85). The least degree of care known to the law would, therefore, be all that would be required of him, which would make him liable only for gross negligence or wilful injury.

On the other hand, the finder is not entitled to any recompense or reward from the owner for finding his property, if none has been offered; he is only entitled to be paid for his reasonable and necessary expenses incurred on account of the property restored. Nor has he a lien on the goods for the amount of his claim, as the case does not come within the common-law principle of lien, which includes only the two cases where, first, one is *compelled* (*Skinner* v. *Upshaw*, Raym. 752; *Smith* v. *Dearlove*, 6 C. B. 132) to receive the property of another, as is the case with a common carrier or an innkeeper; and, secondly, where one has *improved* (*Franklin* v. *Hosier*, 4 B. & Al. 341) or altered the properties of the article delivered to him. Nor has he a right of lien arising ex contractu, either expressly or founded in usage; and there is no right of lien that is not founded upon one of these grounds. The clause, therefore, so frequently inserted in advertisements, "that found property will be given up upon the payment of the expenses," in so far as it imposes the payment of expenses as a condition precedent to giving it up, is void, the finder having no right to make such a condition; he is bound at once to hand over the property to the owner, and can only enforce his claim, if any, by action.

Mr. Justice Story, in his treatise on Bailments, (p. 391, 2nd ed.), expresses a strong opinion that the finder of goods ought in every case to be entitled to a *reward* for the mere finding and restoring, in addition to the indemnity for necessary expenses, as in the case of *salvage* payable to those who rescue goods from the sea. The English law, however, recognises no such right; and there is certainly a wide distinction between the danger and enterprise implied in the rescue of goods from the perils of the sea and the mere finding on land. At the same time, if the owner of lost goods publishes, either through the medium of a newspaper, or by handbills, or by proclamation vivâ voce, that a reward will be paid to any person who will bring him the lost articles, any one complying with the terms of the offer becomes at once entitled to the reward, and may sue for it. The publication of such an offer is evidence of a continuing offer until it is recalled; so that, before such revocation, performance or a readiness and willingness and an offer to perform that which is required by the advertisement completes a valid and binding contract.

A rather curious case arose recently, but which, fortunately for the parties, was settled before they were far advanced in litigation. The loser had offered a reward to any one who would bring the article to his counting-house; the finder on the same day and in the same paper had inserted an advertisement that the owner might have the article upon calling for it and paying for that advertisement. The owner, acting thereupon, called and demanded his property, at the same time paying for the advertisement. The finder, however, having now seen the other advertisement, conceived that he was entitled to the reward. There is, however, no doubt or difficulty in such a case. The advertisement of the owner is evidence of a continuing offer on his part until revoked, and if acted upon by the other before revocation, a complete and binding contract is at once effected. But if the owner is the first to act upon the advertisement of the other, whether by complying with its terms, or by merely taking advantage of the information it contains, and demanding his goods, then ipso facto the offer contained in his advertisement is recalled, and the opportunity of acting upon it gone.

The finder of a chattel casually lost, and not actually abandoned, although he acquires no property therein as against the real owner, has nevertheless such a property as will entitle him to keep it against all the rest of the world, and he may maintain trover against a wrongdoer in respect of it. This was decided in the leading case of *Armory* v. *Delamirie*, (1 Str. 504; 1 Smith's L. C. 151). In that case a chimney-sweeper's boy found a jewel, and took it to a goldsmith's to know what it was; the man, under the pretence of weighing it, took out the stones, and then offered the boy three halfpence for it: the boy, however, insisted upon having the jewel returned, whereupon the man gave him back the empty socket. In trover against the goldsmith, the boy recovered the full value of the jewel. It is now established that mere possession is sufficient to entitle one to maintain trover against a wrongdoer, and the latter cannot set up the jus tertii. (*Jeffreys* v. *The Great Western Railway Company*, 2 El. & Bl. 802; 2 Jur., N. S., part 1, p. 250).

So, again, in the well-known case of *Bridges* v. *Hawksworth*, (21 L. J., Q. B., 75), the plaintiff had found a bundle of bank notes, which had been accidentally dropped on the floor of the defendant's shop by some one unknown. The plaintiff handed them to the shopkeeper for the real owner when discovered, and then at once took steps at his own expense to find him out. The owner not appearing after the lapse of a considerable time, the plaintiff demanded the notes, but the shopkeeper refused to give them up, whereupon the action was brought; and it was held that the finder was entitled to recover the notes, for that in the first place, by the finding on the shop floor during the hours that the shop was open to the public, he acquired the same property as if he had found them in the public highway; and, secondly, that the handing them over to the shopkeeper for the purpose and under the circumstances mentioned did not divest him of this right. Where, however, goods are casually dropped in an inn, the landlord, and not the actual finder, is entitled to keep them, for the landlord has a special property in the goods of all persons coming into his inn, and such goods are not therefore strictly lost property. The landlord acquires this right in consequence of the obligation he is under to take them in, and the burthen involuntarily (*Calye's case*, 8 Rep. 32; 1 Smith's L. C. 47) cast upon him in case of any injury or loss befalling them. In like manner articles left by visitors in a private house do not properly come within the category of lost goods, as they are under the protection and in the quasi possession of the host.

If the owner never appears, the goods belong to the finder. This is the general rule. If the finder, however, knows, or has the means within his reach of finding out the owner, then he will not be justified in appropriating the goods to himself. According to the strict doctrine of Ulpian (Dig. 47) it was theft to convert to one's own use (animo lucrandi) property found, when the finder had not *reason to believe it had been abandoned*. The doctrine of the English law, however, is not so severe. The rule is, that if the finder of goods, knowing who the owner is, or reasonably believing that he can be found, nevertheless takes them with the intention of appropriating them to his own use, it is larceny. The fundamental rule is, that to constitute the crime of larceny there must be a *felonious taking* or an *actual taking* animo furandi; that is to say, a taking of another man's goods into one's possession with intent at that very time to take the entire dominion over them, and to appropriate them to one's own use against the will of the owner. And in 3 Inst. 107, tit. "Larceny," we find it thus laid down by Lord Coke—"Actus non facit reum, nisi mens sit rea, and the *intent* to steal must be when it cometh to his hands or possession, for if he hath the possession of it once lawfully, though he hath animum furandi afterward, and carrieth it away, it is no larceny;" and this doctrine, which has been confirmed by numerous decisions, is still the law of England, although some difficulty has been found in the application of it to certain cases. For example, a finder of a bank note kept it in his possession for some time without converting it to his own use; he possessed from the first the means of finding out who the owner was; he subsequently appropriated it to his own use, and was then indicted, and convicted of larceny. Now, in this case, if he had been indicted before the actual conversion of the note, he would have been acquitted, because the conversion was the principal fact which proved that the original taking was felonious; and from this the conclusion has sometimes been erroneously drawn, that the act of conversion constitutes the larceny; this, however, is not so; the act of conversion is merely evidence of the animus of the original taking, and it is simply as evidence of this that it is submitted to the consideration of the jury upon the question, which is always the question to be determined in these cases, did the prisoner, *when he found the goods, take* them into his possession *with the intention* of appropriating them to his own use, at the *same time knowing*, or believing that he had the means of ascertaining, who the owner was? (*Reg.* v. *Preston*, 2 C. C. R. 353; 21 L. J., M. C., 41). There is nothing, therefore, in this case inconsistent with the rule laid down by Lord Coke, from which it follows, that if one *takes* goods into his possession without any felonious intent, and afterwards change his mind and fraudulently convert them, it will not constitute the crime of *larceny*. For, as observed by Alderson, B., in the last-mentioned case, "how can a subsequent alteration in a man's mind convert an honest taking ex post facto into a dishonest one?"

The same question was again fully discussed in the case of *Reg.* v. *Thurborn*, (2 Car. & K. 831), in which the rule was laid down as follows:—"If a man finds goods which have been actually lost, or which are reasonably supposed by him to have been lost, and appropriates them with intent to take the entire dominion over them, really believing when he takes them that the owner cannot be found, it is not larceny; but if he takes them with the like intent, though lost, but believing that the owner can be found, it is larceny." In that case the prisoner found a bank note, and took it, intending to appropriate it to his own use; he did not know who the owner was, and there was evidence to shew that he could have had no reasonable idea that the owner could be found; he kept the note in his possession for some time without converting it; the owner, however, subsequently appeared, when the prisoner immediately converted the note; and in this case, upon the grounds above stated, it was held that there was no larceny. In addition to the difficulty that arose in these cases, there is another class of cases, in which a question arises as to what constitutes the *taking* within the rule; for example, the prisoner had placed a flock of sheep to pasture with others in a field, and afterwards, in driving them away, he inadvertently drove along with them a sheep belonging to another person; upon his subsequently discovering the strange sheep, although he knew who the owner was, he still kept it, and sold it with his own. In this case it was contended, on behalf of the prisoner, that according to the rule already laid down, as the original taking was not felonious, there was no larceny. It was, however, held otherwise, upon the ground that the *taking*, strictly speaking, was when the prisoner found the strange sheep in his flock. The cases of money found by tailors and carpenters and others in articles sent to them to be repaired are instances of a like nature. (*Cartwright* v. *Green*, 8 Ves. 405). The following also is an example of the same class:—A lady, upon leaving a shop, inadvertently carried away an article hanging to her dress, and, upon subsequently finding it, kept and appropriated it to her own use, instead of returning it. This constituted a larceny, the *taking* being at the time of finding, and not at the time of leaving the shop.

Where a person purchased a bureau at a public auction, and afterwards discovered, in a secret drawer, a purse of money, and appropriated it, the Court held, that if he had notice that the bureau alone, and not the contents, were sold, or if he had reason to believe so, then his appropriation amounted to larceny. (*Merry* v. *Green*, 7 M. & W. 623). In like manner, goods bailed for a special purpose, or for a particular time, may, upon any determination of the bailment, become the subject of larceny, and the taking will be when the bailment is determined; so that a carrier may commit larceny of goods originally taken by him lawfully, or a hirer of a horse by afterwards making away with him. It must be borne in mind, however, that the jury must be satisfied in all cases that there was a taking animo furandi in the strictest sense. If, in the absence of such taking, a finder keep the goods, however improper his object may be, it will not be larceny. Thus it was so decided in a case where the finder merely kept them in the hope of a reward being offered; (*Reg.* v. *Yorke*, 2 Car. & K. 841); although it was also decided, that where the original taking was with an intention to appropriate, it was still larceny, notwithstanding the prisoner afterwards gave them up, in order to obtain the reward. (*Reg.* v. *Peters*, 1 Car. & K. 245).

We will now concisely enumerate the classes of cases in which the property in found goods does not pass to the finder. In the first place, the rule does not extend to goods found *hidden* in the earth, usually called "treasure-trove." This, where the true owner cannot be found, belongs to the Crown, or the lord of the manor or other grantee of the Crown. Originally, at common law, according to Lord Coke, treasure-trove belonged to the finder; (3 Inst. 132); and Grotius lays it down that it belongs by the law of nature to the finder. The rule laid down in Justinian is, that treasure shall belong to the finder if he find it in his own land; and if in the land of another, then one-half shall belong to the finder and the other to the owner of the soil. However, in England and the principal European countries, a different rule of law was established in the feudal times, which gave the right to the prince, and not to the finder; and indeed, in those times, the concealment of treasure, when found, was made a highly penal offence. At the present day the rule is certainly not rigidly put in practice against finders.

Secondly, wreck and goods found derelict at sea do not belong to the finder or rescuer, although absolutely abandoned. All wreck not claimed by the owner belongs to the Crown, or the lord of the manor or other grantee of the Crown; and derelicts at sea become the perquisites or droits of the Admiralty, the finder or salvor being entitled to a proportion of the thing saved, by way of remuneration, which is technically called "salvage."

Thirdly, we have the case of goods waived or abandoned by a thief in his flight. These were in ancient times considered to belong to the Crown absolutely, whether the true owner appeared or not, upon the ground of a supposed want of vigilance and activity on his part in not successfully pursuing and capturing the thief. The owner, however, became entitled to them upon his prosecuting the thief. At the present day no such claim of the Crown could be set up successfully against that of the true owner; the Crown, however, is still entitled against the finder, although this right is not in general put in force.

Fourthly is the case of estrays which are valuable, and reclaimed animals found wandering, and no one knows to whom they belong. After being proclaimed in the church and two adjoining market towns, they become, after a year and a day, the property of the Crown, or the lord of the manor or other grantee of the Crown. Animals feræ naturæ, and animals not valuable in the eye of the law, such as dogs and cats, do not come within the category of estrays. The lord, who is entitled to the estray, is bound to feed and take proper care of it, but he must not make use of it until the expiration of the year and a day, unless it is necessary for the animal's well-being—such as exercising a horse or milking a cow.

Lastly, we have those special cases in which by express enactment the common law on the subject has been altered. Thus, by the 16 & 17 Vict. c. 33, (the Metropolitan Hackney Carriages Act), s. 11, all property left in cabs is to be taken by the driver to the nearest police-station, and left there, and the property is to be returned to the owner upon his paying the expenses and a reasonable reward to the cab-driver. If such property is unclaimed for a year it may be sold, and the proceeds, after paying the expenses and a reasonable reward to the cab-driver, be paid into the public treasury. A similar provision is also made in the case of property left in any metropolitan stage-carriage, and a penalty of 10*l.* imposed upon any passenger taking possession of such property, and refusing to hand it over to the conductor or coachman.

It may be here observed that it is not unusual amongst railway companies to make a yearly sale of all the unclaimed articles found in their carriages and at their stations. They have, however, no right so to dispose of the lost property, unless in certain cases special provision is made for this purpose in their special act, or their bye-laws made according to the powers conferred upon them.

Review.

Daniell's Practice of the High Court of Chancery. Third Edition. Adapted to the present Practice of the Court. By Thomas Emerson Headlam, *M. P., one of her Majesty's Counsel.* 2 *vols.* 8*vo.*
[*Stevens & Norton.*]

A book of such long-established and high reputation as Mr. Daniell's, which has long been considered the standard authority on Chancery practice, requires no recommendation from us; and it is needless to observe how desirable a new edition is at the present time. The last preceding edition appeared in 1845, since which time the course of Chancery proceeding has undergone a change, which, though we do not dispute its title to be called a reform, may also lay claim to the appellation of a revolution. The labours of the present editor upon the former edition are so well and so favourably known to the Profession that it is unnecessary to say anything as to his competency for the task, and we hope that the present publication will be valued by them as it deserves. At the same time we feel it our duty to notice, in no unfriendly spirit of criticism, that there are one or two points which, as it seems to us, might be usefully attended to in any future edition. In a work looked upon as the code of Chancery practice the student and practitioner might well expect to find some information as to interpleader suits; but the silence as to them which was observed in the first edition has been continued down to the present time; and a like disappointment awaits any one who turns to the work for any information as to bills to perpetuate testimony. We also cannot but think, that although the rules of the Court as to parties are now considerably relaxed, that subject is somewhat too perfunctorily treated of in the present edition. We do not think that such a summary as this—"The general result of the New Rules is, that technicalities of all kinds are now banished from the subject, and it is only necessary in every suit in equity to make such persons parties as are clearly and obviously, from the nature of the case, necessary, namely, those against whom direct relief is sought"—is calculated to give a student a correct impression, or to serve as a useful guide to the practitioner. We think it necessary also to warn those who use the work for reference that it cannot safely be relied on as containing a complete collection of the cases decided upon the different sections of the Chancery Amendment Act. In the preparation, however, of a work like the present, in which more extensive alterations were required than are usually necessary in a new edition of a standard work, some slips and omissions may well be excused, and the rule applied—"Haud ego paucis offendar maculis."

Correspondence.

TO THE EDITOR OF "THE JURIST."

SIR,—In the notice which you have done me the honour to take of my "Letters to John Bull" you remark, after much that is complimentary, that *evidently without having given the matter any deliberate attention*, I dispose of the important question of registration by addressing my "gullible" friend in the following style:—"Now, if you are willing to give up settling, and give up leasing, and to go back to a rather primitive state of things, you may, by machinery of registration, in somewhat less than a century's time, make the transfer of landed property wonderfully simple. But if you are not willing to do this, you must patiently submit to bear the expense which the facility and security of disposition you now enjoy inevitably bring."

Now, so far from my having neglected to give the matter any deliberate attention, the next page but one of your own periodical contains evidence to the contrary. You there give some extracts from the report of the commissioners, part of which runs thus:—"One of the witnesses has observed, in his evidence, that 'a map is a good servant, but a bad master—very useful as an auxiliary, but very mischievous if made indispensable.' In this opinion we concur." The witness who so far carried the commissioners with him was no other than myself; and you will find in the appendix to their report upwards of three folio pages occupied by my evidence—a circumstance which at least affords a presumption that I have given the matter some attention. In fact, if there is any matter to which my attention has been deliberately given, this is the one; and the quotation which you have done me the honour to make from my "Letters to John Bull" contains, though in few words, the result of as much deliberate attention as I am able to give.

I have the honour to be, Sir,
Your obedient servant,
7, New-square, Lincoln's-inn, JOSHUA WILLIAMS.
4th April, 1857.

[We still think that we used the right expression in saying that Mr. Williams had not given the matter any deliberate attention. Lord Bacon advises that no one should conclude his adversary's opinion to be wrong until he is able to understand and explain how he fell into the error; and when a self-taught genius tells us that he has squared the circle, or solved the Delian problem, while we give him credit for having sufficiently perspired over his own notions, we are also certain that he has not given any deliberate, that is to say, effective, attention to "the matter," namely, the received science of geometry, which he professes to amend. If he had laid aside his preconceived notions—his prejudices—becoming a student before proceeding master, he would have learned what every patient attentive student does learn. So a plaintiff or defendant, who enters with all the ardour and blindness of a partisan into the intricacies of the evidence and arguments on his own side, does not give any attention to the "question in the cause." And so, as we think, Mr. Williams, though he may have given much attention to certain considerations relating to registration, has not given to the proposed scheme that attention which is expected from every learner, from every candid critic, the attention necessary to understand it thoroughly. If he had done so, we have sufficient confidence in his ability, and in our own candour, to believe that we should have seen in his letter on "the transfer of land" some objections worthy of serious attention. In this he is not singular. We have conversed with several learned conveyancers who had published objections to the plan known as Mr. Wilson's, and not one of them was able to stand the mildest examination in "Wilson's plan." They had never read it through—did not understand it; and their conduct in the matter has hardly been burlesqued by the pamphlet published two months ago under the title of "A few words of explanation and advice to landowners on the Bill about to be introduced into Parliament for the Registration of Land, by a Conveyancing Barrister," in which the writer, after arguing strenuously against the bill, winds up with the confession, that he is "not aware what may be the scheme of the bill to be introduced into Parliament."

We are justified in concluding from the evidence before us, that Mr. Williams has not "got up" Mr. Wilson's plan as he ought to have done before he condemned it. If he had got it up, his objections and arguments against it would have been more definite than the following, which comprise (in our words, not those of Mr. Williams) the entire substance (in argument and suggestion) of his letter to J. B.:—"You cannot have the services of talented men without paying for them. You cannot mortgage, charge, settle, and will property, as you now do, without considerable expense. A settlement should provide, and does provide, for the most remote contingencies, and must be skilfully drawn. According to the present practice, land cannot be sold without an expensive investigation of the history of the ownership. *You cannot avoid this without giving up the use of settlements.* [Mr. Williams suggests this inference, but omits to prove it.] By the new plan it is proposed to place land on the same footing as stock; but an acre of land has individuality—100*l.* of stock has none. You must measure and describe land. This requires skill and labour, to be paid for. Then, stock is not subject to leases and underleases, as land is; and it is not liable, while in settlement, to an overgrowth of mortgages and leases, as land is. Therefore the proposed plan cannot be adopted without giving up leases, settlements, and mortgages, and going back to a rather primitive state of things." This is all. We repeat that evidently Mr. Williams has not given any deliberate attention to Mr. Wilson's plan: he has not got it up half so well as we have got up Mr. Williams's seventh letter. We are sorry for it; for if he would only take the trouble to study it, we believe he would become a convert, and an able and zealous advocate for it.—ED.]

EDWARD DUKE MOORE, Southgate, Middlesex, and Minories, City, merchant, (trading with Maurice Evans and William John Hoare, under the firm of E. D. Moore & Co.), April 23 at half-past 2, and May 19 at 1, London: Off. Ass. Lee; Sols. Lawrance & Co., 14, Old Jewry-chambers. —Pet. f. April 6.

CHARLES COPLAND and WILLIAM GEORGE BARNES, Botolph-lane, City, and Southampton, provision merchants, (trading under the style or firm of Copland, Barnes, & Co.), April 24 at 1, and May 25 at 11, London: Off. Ass. Nicholson; Sols. J. & J. H. Linklater & Co., 17, Sise-lane.—Pet. f. April 3.

FREDERICK WILLIAM WHISTON, Birmingham, druggist, April 22 and May 13 at half-past 10, Birmingham: Off. Ass. Christie; Sols. Southall & Nelson, and Hodgson & Allen, Birmingham.—Pet. d. April 6.

ELIJAH LAWTON, Manchester, cotton-waste dealer, (carrying on business with John Demeza, under the style or firm of J. Demeza & Co.), April 22 and May 18 at 12, Manchester: Off. Ass. Pott; Sols. Boote & Jellicorse, Manchester.—Pet. f. April 1.

JAMES BRADSHAW and AARON COLLINSON, Burnley, Lancashire, cotton manufacturers, April 23 and May 14 at 12, Manchester: Off. Ass. Hernaman; Sols. Shaw & Co., Burnley; Sale & Co., Manchester.—Pet. f. March 26.

WILLIAM JOHN ROBERTS, Burry Port, Pembrey, Carmarthenshire, draper, April 17 and May 11 at 11, Bristol: Off. Ass. Acraman; Sol. Prideaux, Bristol. — Pet. f. March 28.

WILLIAM BULMER, Bedale, Yorkshire, grocer, April 17 and May 8 at 11, Leeds: Off. Ass. Young; Sols. Newton & Robinson, York; Bond & Barwick, Leeds.—Pet. d. and f. March 30.

WILLIAM GIBBON, Spenny Moor, Durham, grocer, April 20 at 11, and May 26 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Scaife, Newcastle-upon-Tyne; Bolding & Simpson, 17, Gracechurch-street, London.—Pet. f. March 19.

THOMAS PYECROFT, late of Caistor, Lincolnshire, and now of Walton, Sandal Magna, Yorkshire, carrier, April 21 and May 25 at 11, Leeds: Off. Ass. Hope; Sols. Plaskett, Gainsborough; Bond & Barwick, Leeds—Pet. d. March 24.

Meetings.

Wm. Henry Dickinson, Sheffield, joiners' tool manufacturer, April 18 at 10, Sheffield, ch. ass.—*Thomas Wells*, Dorset-place, Clapham-road, Surrey, grocer, April 17 at 12, London, last ex.—*Nicholas Andrews* and *Thomas Andrews*, Gateshead, Durham, ironmongers, April 21 at 12, Newcastle-upon-Tyne, aud. ac.—*Thomas Speeding*, Sunderland, Durham, rope manufacturer, April 22 at 1, Newcastle-upon-Tyne, aud. ac.—*John Davis*, Worcester, tailor, April 29 at half-past 10, Birmingham, aud. ac.—*Henry Howgate* and *Geo. Howgate*, Sheffield, steel converters, April 18 at 10, Sheffield, aud. ac.—*W. Crofts*, Strand, hotel keeper, April 28 at 12, London, div.—*G. Deeks*, Pembridge-villas, Westbourne-grove, Bayswater, auctioneer, May 14 at 11, London, div.—*William Hertz*, Mark-lane and Fenchurch-street, City, merchant, April 29 at 12, London, div.—*Hugh Williams* the elder, *John Williams*, and *Hugh Williams* the younger, West Smithfield, tailors, April 29 at 11, London, div. joint est., and div. sep. ests. of *Hugh Williams* the elder and *John Williams*.—*François Perrin*, Cleveland-street, Fitzroy-square, dealer in foreign woods, April 29 at half-past 12, London, div. —*Smith Hastings*, Lime-street, City, wine merchant, April 28 at 1, London, div.—*James Green*, Long Buckley, Northamptonshire, coal merchant, April 28 at half-past 11, London, div.—*Arthur Hills*, Woodside, near Croydon, Surrey, and Isle of Dogs, Poplar, Middlesex, vitriol manufacturer, April 28 at 1, London, div.—*William Burch*, Back-hill, Hatton-garden, boot-tree maker, April 28 at half-past 11, London, div.—*William Phillips*, Norwich, currier, April 28 at 2, London, div.—*John Green*, Sunderland, patent rope manufacturer, April 28 at 2, London, div.—*John Hunter*, Little Tower-street-chambers, Eastcheap, merchant, April 28 at 2, London, div.—*Frederick Futvoye*, Regent-street and Beak-street, Westminster, jeweller, April 28 at 1, London, div.—*Benjamin Wilson*, Gresham-street, City, money scrivener, April 28 at 12, London, div.—*John Berry*, *Richard Berry*, and *Thomas Berry*, Rochdale, Lancashire, machinists, April 24 at 12, Manchester, aud. ac., and May 1 at 2, div., sep. est. of *John Berry*. —*John Travis* and *Thomas Durden Kershaw*, Shaw, Prestwich-cum-Oldham, Lancashire, cotton spinners, April 21 at 1, Manchester, aud. ac.; April 28 at 1, div.—*Alfred Henry Harrold*, Frome Selwood, Somersetshire, chemist, May 28 at 11, Bristol, div.—*Horatio Bunting*, Colchester, Essex, seedsman, April 17 at 1, London, last ex. and aud. ac.—*Alexander Oldfield*, Devonshire-st., Queen-square, Bloomsbury, bookbinder, April 17 at half-past 1, London, last ex.; April 28 at half-past 1, div.— *Thomas Edwards*, Eversholt-street, Oakley-square, St. Pancras, china dealer, April 21 at 1, London, last ex.—*Peter George Foscolo*, Dunster-court, Mincing-lane, City, corn merchant, April 28 at 11, London, aud. ac.—*Sigismund Gans*, Essex-street, Strand, merchant, May 9 at half-past 11, London, aud. ac.—*Henry Osborn*, Old Trinity House, Water-lane, City, and Great Windmill-street, Haymarket, wine merchant, May 9 at 12, London, aud. ac.—*John Paul*, Bedford, and St. Mary-axe, City, merchant, April 24 at 11, London, aud. ac.; April 29 at 1, div.—*Joseph Thomas Lawrence*, Shoreditch, upholsterer, April 24 at 11, London, aud. ac.; April 29 at half-past 11, div.—*Adolphus Scherman*, George-street, Minories, and New Broad-street, City, general merchant, April 25 at 12, London, aud. ac.—*M. Low*, Broad-street-buildings, City, merchant, April 23 at 12, London, aud. ac.—*Joseph Low*, Broad-street-buildings, City, merchant, April 23 at 12, London, aud. ac.—*James Fell*, Liverpool, wholesale tea dealer, April 20 at 11, Liverpool, aud. ac.; April 29 at 11, div.—*Gilbert Hodgson* and *Wm. Atcheson*, Sunderland, Durham, timber merchants, April 22 at 12, Newcastle-upon-Tyne, aud. ac.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Samuel Potter, High-street, Marylebone, livery-stable keeper, April 28 at half-past 1, London.—*Thomas Butt*, Littlehampton, Sussex, ironmonger, April 28 at 1, London.— *Edwin Etherington*, Godalming and Aldershott, Surrey, grocer, April 29 at half-past 12, London.—*Peter George Foscolo*, Dunster-court, Mincing-lane, corn merchant, April 28 at 11, London.—*George Henderson*, Stanhope-terrace, Regent's-park, apothecary, April 30 at 11, London.—*James Truscott*, Austin Friars, City, commission agent, April 29 at half-past 1, London.—*Charles Henry Davis*, New-cross-road, Deptford, builder, April 29 at 12, London.—*Henry Garnett*, Dover, stationer, April 30 at 1, London.—*William Edward Hawkey*, Sykes-terrace, Mile-end-road, tailor, April 30 at 1, London.—*William White*, Shadwell, miller, May 5 at 12, London.—*John Dangerfield* the elder, Kirtley, Suffolk, builder, April 30 at 12, London.—*James Wakinshaw*, Monkwearmouth, Durham, iron manufacturer, April 30 at half-past 11, Newcastle-upon-Tyne.—*Joseph Sankey*, Salford, Lancashire, wheelwright, April 29 at 12, Manchester.—*Thomas Lane*, Wilton-lodge, New-road, Hammersmith, japanner, April 30 at half-past 10, Birmingham.—*William Baker*, Birmingham, clockmaker, April 30 at half-past 10, Birmingham. —*William Tyler*, King's Bromley, Staffordshire, miller, April 30 at half-past 10, Birmingham.—*Joseph Mascall*, Wolverhampton, Staffordshire, grocer, April 30 at 10, Birmingham.—*Thomas King*, Spalding, Lincolnshire, licensed victualler, May 5 at half-past 10, Nottingham.—*Robert Lee*, Cromford, Derbyshire, currier, May 5 at half-past 10, Nottingham.—*William Smith*, Mansfield, Nottinghamshire, licensed victualler, May 5 at half-past 10, Nottingham.

To be granted, unless an Appeal be duly entered.

Henry Kelly, Arthur-street and Broad-street, Bloomsbury, builder.—*James Walker*, Arundel, Sussex, scrivener.—*Geo. Deeks*, Pembridge-villas, Westbourne-grove, Bayswater, auctioneer.—*Henry Phillimore Winchcombe*, Swansea, Glamorganshire, ship broker.—*William Balshaw*, Liverpool, joiner. —*Edward Von Dadelszen*, Liverpool, metal broker.

Scotch Sequestration.

David Ross, Bridge-end, Alness, merchant.

COMMISSIONERS TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed George Ade, Gent., of No. 48, High-street, Southwark, to be a London Commissioner to administer oaths in the High Court of Chancery; and George Winn, Gent., of Askrigg and Hawes, Yorkshire, to be a Commissioner to administer oaths in the High Court of Chancery in England.

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Printed by HENRY HANSARD, at his Printing Office, in Parker Street, in the Parish of St. Giles-in-the-Fields, in the County of Middlesex; and Published at No. 3, CHANCERY LANE, in the Parish of St. Dunstan in the West, in the City of London, by HENRY SWEET, residing at No. 34, Porchester Terrace, Bayswater, in the County of Middlesex.—Saturday, April 11, 1857.

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No. 119, NEW SERIES.—Vol. III.
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GAZETTES.—FRIDAY, *April* 10.

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JOHN EMMERSON, East India Coffee-house, High-street, Poplar, Middlesex, and Green-gate, Plaistow, Essex, licensed victualler, April 23 at 1, and May 22 at 2, London: Off. Ass. Whitmore; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. April 7.

THOMAS MOSLIN, Cobourg-place, Old Kent-road, Surrey, carpenter, April 16 at 11, and May 14 at 12, London: Off. Ass. Bell; Sols. Depree & Austen, 23, Lawrence-lane, Cheapside.—Pet. f. April 2.

PHILEMON GUY, St. James's-road, Holloway, builder, April 23 at 12, and May 25 at half-past 11, London: Off. Ass. Nicholson; Sols. Paterson & Longman, 68, Old Broad-street.—Pet. f. April 7.

BARTHOLOMEW WARD, High-street, Southwark, Surrey, and New-cross, Kent, stationer, April 24 at 11, and May 25 at 1, London: Off. Ass. Pennell; Sol. Marsden, 4 Sise-lane, City.—Pet. f. April 7.

ROBERT ALEXANDER, formerly of Crawford-street, Camberwell, Surrey, but now of the County Prison, Horsemonger-lane, furniture dealer, April 21 at half-past 2, and May 26 at 12, London: Off. Ass. Lee; Sols. Child & Son, 62, Cannon-street.—Pet. f. April 7.

ALFRED CHARLES WOOD, Pershore, Worcestershire, linendraper, April 24 and May 15 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Helme & Walcot, Worcester; Knight, Birmingham.—Pet. d. April 6.

THOMAS ROWE and **JOHN WALTER TRENERY**, Lincoln, ironmongers, April 29 and May 27 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Reece, Birmingham; Bond & Barwick, Leeds.—Pet. d. March 30.

SAGAR HOLDEN SPLATT, Liverpool, sail maker, (trading under the firm of Splatt & Co.), April 30 and May 21 at 11, Liverpool: Off. Ass. Turner; Sol. Cobb, Liverpool.—Pet. f. April 8.

THOMAS LEWIS, Nantwich, Cheshire, draper, April 24 and May 15 at 11, Liverpool: Off. Ass. Turner; Sols. Sale & Co., Manchester; Evans & Son, Liverpool.—Pet. f. March 24.

WILLIAM THRELFALL, Preston, Lancashire, iron merchant, April 21 and May 12 at 12, Manchester: Off. Ass. Pott; Sol. Catterall, Preston.—Pet. f. March 31.

MEETINGS.

Thomas Harvey, Great St. Helens, City, money scrivener, April 22 at 12, London, aud. ac.—*Alexander Oldfield*, Devonshire-st., Queen-square, Bloomsbury, bookbinder, April 22 at 1, London, aud. ac.—*Richard Bell*, Gracechurch-street, City, contractor, April 24 at 11, London, aud. ac.; May 4 at half-past 1, div.—*Constantine Steddy*, Deal, Kent, butcher, April 27 at 11, London, aud. ac.—*Thomas Prebble*, Ramsgate, Kent, plumber, April 27 at 11, London, aud. ac.—*Geo. Henderson*, Stanhope-terrace, Regent's-park, apothecary, April 30 at 11, London, aud. ac.—*Richard Fernell*, Aldermanbury, City, commission agent, April 28 at half-past 11, London, aud. ac.—*R. H. Hill*, *G. R. Hudson*, and *Frederick Hudson*, London-wall, City, importers, April 30 at 12, London, aud. ac.—*Henry W. Collison* the younger, Bath, provision merchant, May 7 at 11, Bristol, aud. ac.—*Simon Horsman*, Westgate, Bradford, Yorkshire, tea dealer, April 20 at 11, Leeds, aud. ac.—*Wm. Fraser*, Leeds, Yorkshire, cabinet maker, April 20 at 11, Leeds, aud. ac.—*John Allott*, New Miller Dam, Sandal Magna, Yorkshire, banker, April 23 at 11, Leeds, aud. ac.—*John Scaife Hodge*, Pocklington, Yorkshire, miller, April 23 at 11, Leeds, aud. ac.—*Wm. Potter*, Ellerburn, Yorkshire, grocer, April 23 at 11, Leeds, aud. ac.—*Arthur Holden*, Heap Brow, Bury, Lancashire, paper manufacturer, May 1 at half-past 12, Manchester, aud. ac.—*E. Day*, Edgeware-road, Middlesex, builder, May 4 at 1, London, div.—*Samuel Potter*, High-street, Marylebone, livery-stable keeper, May 1 at 11, London, div.—*Robert Johnson*, Adelaide-chambers, Gracechurch-st., City, underwriter, May 1 at 12, London, div.—*W. Jenkinson*, Salford, Lancashire, agent, April 24 at half-past 12, Manchester, aud. ac.; May 1 at half-past 12, div.—*Walter Milligan*, *Wm. Gandy*, and *George Gandy*, Bradford, Yorkshire, stuff merchants, May 1 at 11, Leeds, div. sep. est. of *Wm. Gandy*.—*Thos. Turton Clarke* and *James Wade*, Huddersfield, Yorkshire, woollen-yarn manufacturers, May 1 at 11, Leeds, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

George Ingersent, Notting-hill, licensed victualler, May 1 at half-past 1, London.—*Thomas Cornell*, King-street, Regent-street, St. James's, carver, May 1 at 1, London.—*H. George Dearlove*, Palace-row, New-road, timber merchant, May 4 at 11, London.—*Francis Selfe*, Sheerness, Kent, watchmaker, May 4 at 12, London.—*Frederick Kindred*, Framlingham, Suffolk, miller, May 5 at 2, London.—*William Baker*, Titchborne-street, Haymarket, licensed victualler, May 5 at 1, London.—*James Griffiths*, Bristol, and Cardiff, Glamorganshire, builder, May 12 at 11, Bristol.—*Ann Rees*, Llanelly, Carmarthenshire, grocer, May 12 at 11, Bristol.—*Henry Wm. Collison* the younger, Bath, provision merchant, May 11 at 11, Bristol.—*Stephen Towan*, Plymouth, Devonshire, currier, May 4 at 1, Plymouth.—*John Walker*, Blackburn, Lancashire, commission agent, May 7 at 1, Manchester.—*Henry Martin Manwaring*, Toxteth-park, near Liverpool, grocer, May 1 at 11, Liverpool.—*Simon Horsman*, Westgate, Bradford, Yorkshire, tea dealer, May 4 at 11, Leeds.—*Isaac Barker*, Scarborough, Yorkshire, draper, May 4 at half-past 11, Leeds.

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BANKRUPTS.

EDWARD BEVAN, Kidderminster, Worcestershire, victualler, April 24 and May 15 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Boycott, Kidderminster; Knight, Birmingham.—Pet. d. April 11.

THOMAS RIDLEY, Hartlepool, Durham, draper, April 27 at half-past 11, and May 26 at 1, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. T. & W. Chater, Newcastle-upon-Tyne.—Pet. f. April 9.

ROBERT SWAN YOUNG, West Hartlepool, Durham, tea dealer, April 23 at half-past 11, and June 10 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Harle & Co., Newcastle-upon-Tyne, and 20, Southampton-buildings, Chancery-lane, London; Overbury & Peek, 6, Frederick's-place, Old Jewry.—Pet. f. April 1.

THOMAS HUNTLEY, Sunderland, Durham, grocer, April 23 and June 9 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Watson, Newcastle-upon-Tyne; Harwood, 10, Clement's-lane, Lombard-st., London.—Pet. f. April 7.

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THE JURIST.

LONDON, APRIL 18, 1857.

In the present article we invite the attention of our readers to a consideration of some of the principal cases that have happened of late years, wherein the validity of appointments, under powers to appoint to or amongst children, has been brought into question. The doctrine which concerns this branch of the subject of powers is one the principles of which have been very clearly defined; but in practice the application of those principles is often a task of considerable difficulty, and requires a very nice and delicate discrimination.

The fundamental principle by which the validity of all appointments is to be tested was laid down long ago by Lord Keeper Henley in these terms, namely, "that a person having a power must execute it bonâ fide for the end designed, otherwise it is corrupt and void;" (*Aleyn* v. *Belchier*, 1 Eden, 138); and an appointment not so executed, although correct in form, and unimpeachable at law, will be set aside in equity as a fraud upon the power. It has also been long since established, that with respect to powers of appointment amongst children, whether they be powers of selection or of distribution only, an appointment, if fraudulent in part, will be set aside altogether, "except where some consideration has been given that cannot be restored, and it has consequently become impossible to rescind the transaction in toto, and to replace the parties in the same situation;" (per Sir W. Grant in *Daubeny* v. *Cockburn*, 1 Mer. 643); although, as to powers of jointuring, a contrary doctrine has been maintained, and there the appointment will only be rescinded to the extent in which it is affected by the fraud. (2 Sugd. Pow. 189). It is equally notorious, that where a power has been excessively executed, but without fraud, and with an honest intention in favour of the objects of the power, the appointment may be partially supported, even in the case of powers to appoint amongst children, and the excess alone will be void. What circumstances, however, will be sufficient to stamp an appointment to a child or children with the badge of fraud, and in what cases such an appointment can be considered as having been intended for the benefit of the objects and to promote the ends, although it exceeds the limits, of the power, it is not quite so easy to decide. On these points the recent cases shed considerable light.

One of the plainest instances of a fraudulent execution is that where a parent, having either an exclusive or merely a distributive power, makes an appointment to some or one of his children, which is preceded by or accompanied with a stipulation or arrangement with the appointees for his own benefit; as in *Jackson* v. *Jackson*, (1 Dru. 91; S. C., 7 Cl. & Fin. 977), where a portion of the money realised by a lease of the lands appointed was, in pursuance of such an arrangement, applied in payment of debts affecting the estate of the father; and in such a case, according to the rule above stated, it is of course sufficient, in order to vitiate the appointment, that it should have been partially, though not wholly, for the parent's advantage. Upon this point the case of *Askham* v. *Barker* (17 Beav. 37) may also be referred to, where, under an exclusive power, an appointment of a fund to grown-up daughters in exclusion of a son, accompanied with an exchange of the sum appointed for an equity of redemption of equal value in real property of the parent, was maintained. Again: an appointment may be bad for fraud, although there is no actual bargain or agreement for the benefit of the parent, but the circumstances attending the execution are such as to shew conclusively, that the design of the appointor was to promote his own interests to the prejudice of the children the objects of the power. Thus, in *Wellesley* v. *Lord Mornington*, (2 Kay & J. 143), real estate was limited to trustees for a term of years, to commence from the decease of the survivor of A. and his wife, upon trust to raise portions for A.'s younger children, either after the decease of the survivor of A. and his wife, or in the lifetime of the survivor with his consent; that sum to be divided amongst the children in such shares, and to be a vested interest in them respectively at such ages, &c., as A., in the event, which happened, of his surviving his wife, should appoint; and in default of appointment, to be divided among them equally, to be an interest vested in sons at twenty-one, in daughters at twenty-one or marriage. A. had two younger children, B. and C.; and after the decease of his wife he first made a good appointment of a portion of the sum to B., and then, some years having elapsed, he executed two deeds, whereby he appointed the residue in the proportion of three-fourths, amounting to 27,000*l.*, to B., and the remaining fourth to C., and directed that such sums respectively should be interests vested in and assignable by them immediately upon the execution of the deeds, and should be raised forthwith. At the time of this appointment, the professed object of which was to enable B. to pay his debts, and to make a provision for him, B. was indebted to the amount of about 3000*l.*, but had not been molested by any of his creditors, and was possessed of a small annuity. He was also upwards of thirty years of age, but was in such a state of ill health that his life was despaired of, and this fact was known to A. at that time. Within a year afterwards B. died intestate and unmarried, and letters of administration were granted to A. Under these circumstances C. filed a bill, praying that both the deeds might be set aside as a fraud upon the power; and the Court decreed accordingly, on the ground that A. had executed them with the view of succeeding to the property of his son, who was at that time incapable of making a will. The last case was one of a power to raise portions; but, had the power been to appoint a fund actually in existence, the decision would have been the same, inasmuch as it was founded upon the fact, that the power was executed for the express purpose of enabling the father to reap a profit, which was not the intention of the instrument creating it. There is, however, a slight, yet material, distinction between powers to appoint portions to be raised for the children, and powers to appoint to children a fund actually set apart. For under a power of the former class, an appointment, whereby a portion is raised for a child before it is wanted, carries with itself the evidence of fraud, even though the terms of the power authorise the parent to raise the portion whenever he thinks proper; whereas, under one of the latter class, shares may be appointed to the children long before they are actually required, and yet it may happen that the appointment is not even liable to suspicion on that account. In *Butcher* v. *Jackson* (14 Sim. 444) there was a bequest of personalty in trust for A. for life, and after his decease for all or any one or more of the children or other issue of A., in such manner and form, and, if more than one, in such shares and proportions, and the shares of the appointees to vest *at such age or ages*, as A. should appoint; and in default of appointment, for all the children equally, as tenants in common, to vest in them respectively on their attaining their respective ages of twenty-one years, or deaths under that age leaving issue surviving, with remainder over, contingent upon there being no child of A. who should live to acquire a vested interest under the limitation to the children in default of appointment. Four days after the birth of his first child, A., by deed, appointed the fund to all or any one or more of his children, &c. as he should appoint; and in default of appointment, to or in trust for his son then born, and all and every his children by his present or any after-taken wife, as joint tenants. The effect of this appointment might have been, that A., upon the happening of certain events, would himself take the whole fund, to the exclusion of the persons to whom the contingent remainder was limited. But it appeared that the child was in a good state of health at the time of the appointment; and there was nothing beyond the very tender age of the infant, and the probable exclusion of the parties interested in remainder in the event of there being no issue who could take any benefit under the limitation in default of appointment, from which it could be inferred that the appointment was not made bonâ fide in favour of the objects the power. Under these circumstances the appointment was upheld. Much the same question as was here involved arose in the cases of *Fearon* v. *Desbrisay* (14 Beav. 635) and *Beere* v. *Hoffmeister*, (3 Jur., N.S., part 1, p. 78). In *Fearon* v. *Desbrisay*, by marriage settlement a fund was vested in trustees, in trust for A. for life, and after his decease, subject to an annuity to his wife for her life, for A.'s children by any marriage, at such ages and in such manner and in such shares as A. should appoint; and in default of appointment, upon trust for the children equally, but their shares not to vest until twenty-one, or marriage with consent, with a gift over if there should be no child entitled under the trusts or power. Upon the birth of a son, A. executed the power by giving the whole to his son; but afterwards, upon an expected addition to his family, he, being in a precarious state of health, made a new appointment in favour of all his children equally who should be living at his death. Shortly afterwards A. died; another child, a daughter, was born, and then the son died; and his mother, who had married the plaintiff Fearon, obtained letters of administration to him. Mr. and Mrs. Fearon instituted the suit to recover the share of the son in the trust funds. The parties interested in remainder, contingent upon there being no child who should take under the trusts or power, insisted, that if the daughter should die under twenty-one unmarried, or married without consent, they would become entitled to the whole. The Master of the Rolls nevertheless maintained the appointment, on the ground that the appointor could gain no personal advantage by the mode in which he had executed the power, inasmuch as the persons in whose favour the appointment was to take effect could not be ascertained, till his own death; and that in the case of powers to divide funds already provided it was not necessarily a mark of fraud to appoint shares so as to vest before they were required. His Honor further held, that an appointment was not vitiated merely because the effect of it, if the objects of the power should fail, might be to disappoint those to whom the property was to go in default of appointment. He also said that the validity of the execution of a power could not depend on this, whether the appointee died immediately after or not. The subsequent events which might occur could not make it good in one event, and bad in another; and although in this case it was probably not the intention of the framers of the settlement that the widow of the donee should take any interest beyond her annuity, nor the intention of the donee of the power that she should take any interest in the fund which he gave to his children equally, yet that did not affect the question, because she took, not under the appointment, but by devolution, as representing her child. In *Beere* v. *Hoffmister* there was a bequest of personalty, upon trust, after the decease of husband and wife, for all or such one or more of their children, and at such ages, as they should by deed, with or without power of revocation, jointly appoint; and in default, upon trust for the children to be vested interests at twenty-one; with a gift over to the next of kin of the wife, in default of children who should acquire a vested interest. Under this power, an appointment by husband and wife (but reserving a power of revocation and new appointment) of the whole fund in favour of an only child four years of age, but in robust health, the interest to be vested and transmissible immediately after the execution of the deed, was held to be a good execution of the power; although the effect of it, in the events that happened, was to give a benefit to the husband, to the exclusion of the next of kin. The husband at the time of the appointment was in slightly embarrassed circumstances; and the Master of the Rolls said, that if the appointment had been so executed as to have made the appointed fund available as security for advances made to him, and he had obtained advances upon this security, the case would have been different. The three last cases shew, not only that an appointment to a child of tender age, where the estate or fund has been previously set apart or raised for the purpose, is in itself no sign of fraud, but also that the intention of the donor of a power is not to be ascertained merely from the manner in which the fund is given over in default of appointment; and that, if a power is in other respects well executed, the fact that it is executed with the object of providing that in any event the persons entitled in remainder on failure of children shall not take the estate or fund, is not a ground for avoiding the appointment. It has also been decided, that circumstances which raise a strong suspicion, but do not amount to positive proof, that an appointment by a parent to a child was intended for the benefit of the parent, are not sufficient to avoid the appointment. (*Hamilton* v. *Kirwan*, 2 Jo. & Lat. 393). At the same time the suspicion, which the attendant circumstances attach to a transaction of this nature, may have such weight with a Court of equity, that, although in the estimation of the judge the appointment is not necessarily bad, he may still think it necessary to call in the assistance of a jury to decide upon its validity. In *Gee* v. *Gurney*, (2 Coll. 486; S. C., 10 Jur., part 1, p. 367), before Sir J. L. Knight Bruce, V. C., there was a bequest of personalty, upon trust to invest, and to permit A., a feme sole, to receive the dividends during her life, and after her decease to assign the principal unto and amongst all and every or such one or more of her children, and at such ages, &c., as A. should, notwithstanding coverture, by deed, to be sealed and delivered in the presence of and attested by two or more credible witnesses, or by will, appoint; and subject thereto, among the children in equal shares, who were, if sons, to take vested interests at twenty-one, or if daughters, at that age or marriage; but the will contained no clause for the maintenance of the children until their interests should vest. After the death of the testatrix A. married the plaintiff Gee. In the year following the marriage, a son, the only issue, was born; and within little more than a month after his birth Mrs. Gee executed a deed, reciting her power, whereby she appointed the whole fund, to the dividends of which she was entitled during her life, to the sole use and benefit of her son, and reserved to herself a power of revocation. The son died when five months old, and twenty-four years afterwards Mrs. Gee died without having revoked. The plaintiff having, as he alleged, entirely forgotten the appointment, was reminded of it by finding the deed among his wife's papers at the time of her death, and thereupon obtained letters of administration of the effects of his deceased child, and instituted this suit to compel a transfer of the appointed fund to himself. It appeared that the attesting witnesses to the deed were the plaintiff and one B., who was since dead, and that the deed had not been stamped until shortly previous to the filing of the bill, and with that purpose in view. There was no evidence, besides that of the plaintiff and what appeared on the face of the deed, to shew when it was executed. The Vice-Chancellor thought himself compelled by the above state of facts to direct certain issues, not only to try whether the requisites as to the execution and attestation of the instrument had been properly complied with, but also whether the deed had been fairly obtained from Mrs. Gee, and whether it had been executed by her with a fraudulent intention.

We shall continue this subject in our next number.

Correspondence.

GUARDIANSHIP IN CHANCERY.

TO THE EDITOR OF "THE JURIST."

SIR,—Your correspondent "W." (ante, p. 116) is right in supposing that the statement of "The Protestant Alliance," that the decision of Sir R. T. Kindersley, V. C., in *Re Race*, proceeded on the ground that the mother was not a fit character to be intrusted with the child, is untrue.

As your correspondent "W." points out, (and it must, indeed, be obvious to every lawyer), this could not have been the ground of a decision that the child must be brought up a Protestant, and that Protestant guardians must be appointed. Moreover, I stated as a fact, of which I am cognisant as counsel in the case, and though not myself counsel in Chancery, I stated it ex relatione of those who were, that the affidavits impeaching the character of the mother were taken off the file; so it is impossible that this could have been the ratio decidendi.

Your other correspondent, "H.," who was counsel in Chancery on the part of the petitioners against the mother, (ante, p. 92), truly stated that the decision went upon the ground that the father was a Protestant, and that *the child had been brought up a Protestant* until the present time.

Yours &c.,
THE WRITER OF THE FORMER ARTICLES.

Review.

The English Constitution in the Reign of King Charles the Second. By ANDREW AMOS, *Esq., Downing Professor of Law in the University of Cambridge, and late Member of the Supreme Council of India.*
[*Stevens & Norton*, 1857.]

THE reign of Charles the Second is a period more important to the student of constitutional law than agreeable to the general reader of history. For the diminished influence of England in her relations with foreign states, compared to the high rank which during the Commonwealth she had held amongst the nations of Europe, the tarnished lustre of her arms abroad and the shameful misgovernment at home, the mean and degraded character of the King, and the immorality which, from the contagion of the court, was spread amongst the people, the venality of the Parliament, and the universal intolerance of all classes—these must excite in every generous mind a feeling of disgust and indignation. Undoubtedly it is some satisfaction to reflect, that the rights and liberties which had been won at the cost of so much bloodshed and misery were only in abeyance, and not altogether lost to us; but even that was owing, not so much to any lofty spirit or clear judgment of affairs in our statesmen or legislators, as to a kind of jealous instinct in the House of Commons, keenly sensible of the value of its privileges, and sharpened by religious animosity. Nor is the unpleasant feeling which we experience while perusing the annals of this period much mitigated by a contemplation of the few bright examples of honour and patriotism there to be met with; for no sooner do we become interested in the views and conduct of these illustrious men, and begin fully to appreciate their virtues, than we are overwhelmed with horror at the cruel injustice with which they were persecuted, or at their untimely and disastrous fate. But, on the other hand, that reign was rich in constitutional legislation. Witness, as loyal zeal, or self-interest or the fear of oppression, alternately held sway, on the one hand, the statutes relating to treason and sedition, the Act of Uniformity, the Corporation Act, the Five Mile Act, and a number of others extremely objectionable, and, for the most part, now happily swept away; on the other hand, the abolition of military tenures, with their vexatious appendages, and of the writ de heretico comburendo, the Test Act, which was levelled against the Duke of York and the Papists, and though it excluded the dissenters from office, was nevertheless strenuously promoted by them, both upon religious and political grounds, and the famous Habeas Corpus Act, with its truly practical provisions for the security of our persons from unlawful duress. That reign was, moreover, as Mr. Hallam expresses it, "the transitional state between the ancient and modern schemes of the English constitution," and thus presents a sort of stage for the historical commentator, from which he may survey the result of past efforts and experience, and consider what still remained to be done for the protection and adornment of that edifice, of which the columns were already reared and the walls stood, though the buttresses and bulwarks were as yet too weak to secure it against the shocks of the tempest, the carving too rough and unpolished to satisfy the admiring eye. Mr. Amos has placed himself in that situation, and in the book before us has given an accurate picture of the English constitution as it was by law established in the time of the second Charles, and has pointed out how far the political regimen then actually enforced corresponds with that representation. He starts by undertaking to refute some remarks of Blackstone, Fox, and other writers, which point to the theoretical perfection of the constitution at that era, and in the execution of that undertaking he treats us to a lively and amusing, but at the same time instructive, commentary upon the laws and customs, by which the royal prerogative, the Parliament, the Church, liberty of conscience, of the person, of property, and of the press, and of procedure in prosecutions for state offences, were then respectively regulated. He shews, as he proceeds, that some measures enacted in those times were, in truth, the handiwork of other architects than those to whom the merit has commonly been ascribed, or the result of previous events beyond their power to alter or control; and that others, which have been frequently lauded by historians as wise and prudent, have lately come to be regarded as mischievous, and have either been materially varied or in some cases entirely overthrown. The book exhibits abundant evidence of that legal knowledge and careful research for which Mr. Amos is distinguished, and by the pleasant vein of humour which runs throughout its pages, the anecdotes with which it is sprinkled, and the apt quotations with which it is embellished, enables us with the more ease to fix in our memory the important facts so happily illustrated, and affords a seasonable relief after the elaborate panegyric of Sir William Blackstone, and the learned dissertation upon that portion of our constitutional history by Mr. Hallam, who, though graver and more profound, is perhaps less suggestive than our author, and certainly less entertaining. Occasionally, too, Mr. Amos supplies a useful addition or correction to the statements of those writers. In this respect we may notice his interesting remarks upon the press, and the restrictions with which it was shackled, both by statute and by the common law—a subject upon which Mr. Hallam is rather concise. He also cites instances in disproof of Mr. Hallam's assertion, that after the Restoration there was "an entire cessation of impositions of money without the consent of Parliament;" and he largely increases the list of arbitrary proclamations issued by Charles II which that au or furnishes, by a variety of curious examples, including, amongst others, proclamations for pressing soldiers and for martial law, against printers after the expiration of the licensing act, against persons presuming to speak undutifully of his Majesty's measures, and even against those who heard such discourses unless they gave information in due time of offenders, against petitions for the sitting of Parliament, and against importing or vending any painted earthenware except that of china. He has, however, himself fallen into an error, where he indulges in a sarcastic reflection upon the King for his alleged refusal to consent to a bill, which had passed through both Houses of Parliament, for the restoration of the forfeited estate of the Earl of Derby, who was beheaded at Bolton in 1652. Mr. Hallam, in a note, (2 Const. Hist. 23), has given the true version of this story. There are some few points upon which we wish that the learned professor had dwelt a little more fully, or had expressed a more decided opinion. Upon the question, not yet perhaps finally determined, concerning the right of the House of Lords to make alterations in money bills, he is very curt, though he appears to agree with Mr. Hallam, who has inquired into it at length, and considers the advantage of argument to rest with the Peers. And though perhaps it would have been out of place to go deeply into the matter, we should not have been sorry to learn Mr. Amos's opinion with respect to the system of removal under the law of settlement, seeing that, as he tells us, that system occupies so much attention at the present day. Our limited compass will not permit us to follow the author of this work into a multitude of other important topics which it opens for discussion. We are not, however, inclined to concur in his strictures upon the flexibility of the common law, especially at the present time, when precedents are more scrupulously adhered to than at former periods; but we agree with him that it would be both possible and expedient to consolidate "all extant provisions touching illegal imprisonments;" and we would equally encourage any endeavour to methodise "rambling enactments" upon many other branches of law. We do not, however, think him quite correct when he says that by the Nullum Tempus Act of George III, "Time has permanently resumed his hour-glass, and without distinction of persons." For although, by that act, (9 Geo. 3, c. 16), in suits relating to landed estate, sixty years' possession is a bar even against the prerogative, yet, as our readers are aware, there are still many civil claims of the Crown to which a similar limitation might with advantage be prescribed.

The whole of the volume before us is well worthy of a diligent perusal, though, if we were asked to point out any one part of it which is more interesting than another, we should select the last chapter, which relates to the mode of procedure in prosecutions for State offences, and which may be read as a useful appendix to Mr. Phillips's State Trials. Here, too, the author treads upon familiar ground, and consequently assumes a bolder tone of criticism. He expresses an unqualified disapproval of the rule exempting prisoners from interrogation, and still more of that in virtue of which they are cautioned against speaking to their own detection; and criticises, with much freedom and acumen, that law of evidence which, when a man is indicted for an offence involving a charge of conspiracy, admits preliminary proof of the existence of a general plot, before shewing that the prisoner is in any way connected therewith. The account of the writ of habeas corpus, in the chapter upon liberty of the person, will also be found highly valuable to the lawyer; nor can we forbear directing the particular attention of our readers to a speech, quoted in p. 162, which was delivered by the Duke of Buckingham in Parliament in the year 1675, when moving for leave to bring in a bill for the indulgence of Protestant dissenters, and which couches, in plain yet most forcible language, sentiments so noble and so just, that they must excite the admiration of every advocate of religious liberty. In conclusion, we subjoin one passage from Mr. Amos's work as illustrative of his style and purpose, and as not inappropriate to the time of a general election:—

"Members of the House of Commons cannot now be sheltered from the indignation of their constituents during the life of a Sovereign; nor can the kingdom be kept without a Parliament, or a Parliament be prorogued for three years less a day, or be adjourned by royal mandate—all of them constitutional in the reign of Charles II. These improvements of the constitution have been effected as well by means of the Triennial Act of William and Mary, and the Septennial Act of George I, as by a more liberal doctrine concerning adjournments, by a strict and uniform appropriation of supplies, and, more than all, since 1689, by the necessity for an annual Mutiny Act. The annual Mutiny Acts arose out of the occasion for a standing army to preserve the safety and honour of the country, combined with that provision against a standing army, without consent of Parliament, in the Bill of Rights, and that against martial law in the Petition of Right. These two constitutional bulwarks of our ancestors are thus annually reproclaimed, and dispensed with, subject to revival at the end of a year. The necessity for the annual holding of Parliaments consequent on the Mutiny Acts affords a striking example how little to the wisdom of senates, and how much to the concatenation of circumstances beyond human foresight, is to be ascribed the amelioration of the English constitution from its state of imperfection in the reign of Charles II."

Court Papers.

EQUITY CAUSE LISTS, EASTER TERM, 1857.

*** The following abbreviations have been adopted to abridge the space the Cause Papers would otherwise have occupied:—*A.* Abated—*Adj.* Adjourned—*A. T.* After Term—*Ap.* Appeal—*C. D.* Cause Day—*Cl.* Claim—*C.* Costs—*D.* Demurrer—*E.* Exceptions—*F. D.* Further Directions—*M.* Motion—*P. C.* Pro Confesso—*Pl.* Plea—*Ptn.* Petition—*R.* Rehearing—*S. O.* Stand Over—*Sh.* Short.

Before the LORD CHANCELLOR.

APPEALS.

Eaton *v.* Hazell }
Eaton *v.* Hazell }

Stephens *v.* Powys

Lloyd *v.* Solicitors' and General Life Assurance Society.

Before the LORDS JUSTICES.

APPEALS.

Pain *v.* Coombs
Agnew *v.* Pope
Perkins *v.* Green }
In re Green }
Green *v.* Green }
Emmott *v.* Emmott (2)
Lanham *v.* Pirie
Jones *v.* Farrell }
Jones *v.* Pitt }
Stephens *v.* Stephens
University of London *v.* Yarrow.

CAUSES.

Smith *v.* Lakeman (Further consideration), *April* 16
Smith *v.* Durrant (M for dec.)

Before the Right Hon. the MASTER OF THE ROLLS.

CAUSES, &c.

Meredith *v.* Vick (Further consideration, Ptn), pt. hd.
Findon *v.* Findon (M for dec.)
Stainton *v.* Carron Co. (M for decree)
Earl Lanesborough *v.* Moore (M for decree)
Irewin *v.* Hamer (Cau.), *April* 17
Spencer *v.* Pearson (M for decree)
Wing *v.* Roof (Cl)
Faulkner *v.* Jeffery (Further consideration, M to vary certificate)
Regent's Canal Co. *v.* Ware (M for decree)
Chorley *v.* Bellett (M for dec.)
Hampson *v.* Hampson (M for decree)
James *v.* Gibbon (4) (F D, C)
Blandy *v.* Kimber (M for dec.)
Robinson *v.* Anderson (Further consideration, 2 Ms, & defendant's M)
Devayne *v.* Robinson (M for decree)
Ridpeth *v.* Houghton (M for decree)
Cavendish *v.* Greaves (M for decree)
Anthony *v.* Croughton (M for decree), *April* 24
Att.-Gen. *v.* Prettyman } (E
Att.-Gen. *v.* Dean, &c. of Lincoln } to rep.)
Att.-Gen. *v.* Prettyman } (F
Att.-Gen. *v.* Dean, &c. of Lincoln } D, C)
Att.-Gen. *v.* Prettyman } (F
Att.-Gen. *v.* Bishop of Lincoln } D, C)
Granger *v.* Powers (Cause)
Paine *v.* Ryder (Cause)
Fowler *v.* Wyatt (Cause)
Tompson *v.* Tidswell (M for decree)
Barrow *v.* Wadkin (M for decree)
Cottam *v.* Philipps (M for decree)
Terry *v.* Watmore (Cause)
Jones *v.* Williams (Cause)
Rabbeth *v.* Minter (M for decree)
Prescott *v.* Grieg (M for dec.)
Knight *v.* Bowyer (Cause)
Jones *v.* Williams (M for dec.)
Nicholson *v.* Gunn (M for decree)
Spencer *v.* Lockney (Sp. case)
Little *v.* Arthur (M for decree)
Hall *v.* Giles (M for decree)
Dixon *v.* Walcott (M for dec.)
Milward *v.* Jones } (Cause)
Lyster *v.* Jones }
Jonas *v.* Cannan (M for dec.)
Packman *v.* Vivian (Cause)
Stidolph *v.* Dickinson (M for decree)
Noble *v.* Brett (otherwise Hodges (M for decree)
O'Hara *v.* Vile (M for decree)
Jeffery *v.* Orbley (Cause)
Swift *v.* Swift (Cause)
Vincent *v.* Spicer (Further consideration, Summons to vary certificate)
Dixon *v.* Dixon (M for decree)
Cattlow *v.* Daniel (M for dec.)
Rowland *v.* Brewer (Further consideration)
Randall *v.* Daniell (M for decree)
Freeman *v.* Stokes (Further consideration)
Bainbrigge *v.* Orton (Cause)
In re Sarah Yeomans } (Fur.
Yeomans *v.* Haynes } cons.)
Longstaff *v.* Barker (Cause)
Gascoyne *v.* Ellis (M for dec.)
Cowlishaw *v.* Hardy (Further consideration)
Bridges *v.* Longmen (Further consideration, 2 summons)
Halcroy *v.* Woodyard (Cl)
In re Moore } (Further
Moore *v.* Moore } considerat.)
Cotesworth *v.* M'Gachen (M for decree)
Marriott *v.* Reynolds (M for decree)
Sherwood *v.* Grice (Further consideration)
Baldwin *v.* Cronin (M for decree)
Anderson *v.* Anderson (M for decree)
Tugwell *v.* Scott (Cause)
Hawksworth *v.* Hawksworth (Cause)
In re Judson } (Fur.
Wentworth *v.* Westrop } con.)
Priestman *v.* Tindall (Further consideration, Summons)
In re Graham, decd. } (Fur.
Graham *v.* Graham } cons.)
Close *v.* Gordon (Further consideration)
Moor *v.* Abbott (M for decree)
Collett *v.* Dixon (M for dec.)
Winkworth *v.* Winkworth (M for decree)
Dempster *v.* Graham (M for decree)
Lacy *v.* Read (M for decree)
Att.-Gen. *v.* Holmes (Further consideration)
Ridley *v.* Tiplady (Further consideration)
Owens *v.* Kirby (M for dec.)
Att.-Gen. *v.* Hall (Further consideration)
Page *v.* Page (Cause)
In re Hale } (Fur.
Webster *v.* O'Connor } cons.)
Benson *v.* Pocklington (M for decree).

Before Vice-Chancellor Sir RICHARD T. KINDERSLEY.

CAUSES, &c.

Saunders *v.* Saunders (Cause)
Lambert *v.* Maynard (Further consideration)
Harcourt *v.* Harcourt (M for decree)
Wakeford *v.* Warman (M for decree)
Strangways *v.* Bishop (Cl)
Andrews *v.* Pugh } (Further
Andrews *v.* Sturgis } consid.)
Wentworth *v.* Chevell (F D, C)
Hurst *v.* Gregory (Sp. case)
Shepherd *v.* Shepherd (M for decree)
Ewart *v.* Williams } (E to Master's
Williams *v.* Ewart } report)
Cannock *v.* Jauncey (Cause)
Cannock *v.* Higgins (M for decree)
Dawes *v.* Barnes (Cause)
Browne *v.* Paull (4) (F D, C)
Seed *v.* Lee (Cause)
Maddy *v.* Hale (Further consideration)
Siddon *v.* Lichfield (M for decree)
Sharples *v.* Marsh (3) (Further consideration) *Sh*
In re Howell } (Further
Howell *v.* Sharpe } consideration)
Howell *v.* Roberts }
Hakewill *v.* White (Further consideration)
Marke *v.* Marke (Cause)
Easthope *v.* Henderson (Further consideration)
Phipps *v.* Child (Cause)
Bull *v.* Robertson (Cause)
Appleyard *v.* Walker (Cause)
Miller *v.* Drummond (M for decree)
Gibbs *v.* Ecles (M for decree)
Owen *v.* Shepherd (Further consideration)
Jamison *v.* M'Kenzie (M for decree)
Clayton *v.* Newport (Further consideration)
Parr *v.* Lovegrove (M for decree)
Turner *v.* Goodrick (Further consideration)
Larner *v.* Larner (M for dec.)
Barnes *v.* Taylor (Cause)
Pennant *v.* Pennant (5) (Further consideration)
Pugh *v.* King (E to Master's report)
Wilkinson *v.* East (Cl)
Wood *v.* Hookway (Cause)
Gregory *v.* Pilkington (5) (F D, C)
Stanton *v.* Kersey (F D, C)
Martin *v.* Martin (F D, C)
Lamb *v.* Lamb (M for decree)
Atkinson *v.* Kelly (M for dec.)
Snewing *v.* Dutton (Cause)
Varden *v.* Varden (Cause)
Peacock *v.* Shrubb (Further consideration)
Sibley *v.* Minton (M for dec.)
Wade *v.* Ward (Cl)
Wilton *v.* Hill (Further cons.)
Potter *v.* Wallace (Cause)
Tunally *v.* Roch (Further consideration)
Collingwood *v.* Row (M for decree) *Sh*
Garner *v.* Briggs (Cause)
Barkworth *v.* Young (M for decree)
Barton *v.* Weekes (M for decree) *Sh*.

Before Vice-Chancellor Sir J. STUART.

CAUSES, &c.

Dean *v.* Hall (6) (F D, C)
Booth *v.* Coulton (Further consideration)
Robson *v.* Earl of Devon (Ca.)
Pattrick *v.* Eastern Union Railway Co. (M for decree)
Wenham *v.* O'Brien (Cause)
Holden *v.* Holden } (Cause)
Hill *v.* Dolphin }
Price *v.* Watson (M for dec.)
Newry and Enniskillen Railway Co. *v.* Spackman (Ca.)
Vint *v.* Padget (Cause)
Richardson *v.* Chapman (Ca.)
Tollemache *v.* Dendy (Cause)
Lawrance *v.* Galsworthy (Ca.)
Ford *v.* Heeley (M for decree)
Booth *v.* Alington (3) (Further consideration)
Grote *v.* Bury (Cause)
Moses *v.* Baylis (M for dec.)
King *v.* King (M for decree)
Lanham *v.* Blundell (M for decree)
Jones *v.* Cullimore (Cause)
Parmiter *v.* Parmiter (Cause)
Miles *v.* Whitmarsh (M for decree) *Sh*
Cofield *v.* Pollard (M for decree) *Sh*
Wright *v.* Sandars (Cause)
Harland *v.* Cass (M for dec.)
Burdon *v.* Burdon (M for dec.)
Lane *v.* Ansell (Cause)
Moore *v.* Moore (Cause)
Spong *v.* Straight (Cause)
In re Nash }
Roche *v.* Hand (Further consider. from chambers) }
Nelson *v.* Booth (M for dec.)
Turner *v.* Hopkins (Cause)
Rogers *v.* Birkhead (M for decree)
Minett *v.* Goodale (Cl)
Barnes *v.* Jay (F D, C)
Napper *v.* Dendy (Further consideration, Summons)
Barclay *v.* Pead (M for decree)

Parmenter *v.* Campbell (Cau.)
Field *v.* Field (Cause)
Jones *v.* Williams
Williams *v.* Sturgis
Williams *v.* Jones } (Further co. from chamb.)
South *v.* Searle (Further consideration)
Webster *v.* Webster (Cause)
Prudence *v.* Sutton (M for decree)
Manning *v.* Purcell (Rehear.)
Inman *v.* Davison (Further consideration)
Basford *v.* Hopkins (M for decree) *Sh*
Bullocke *v.* Crowe
Bullocke *v.* Armiger } (Caus.)
Jewson *v.* Edwards (Further consideration)
Waters *v.* Waters (Further consideration)
Hodson *v.* Roberts (M for decree)
Halliley *v.* Henderson (M for decree)
Griffin *v.* Watts (M for dec.)
Simpson *v.* Wood (M for decree)
Fall *v.* Elkins (Further cons.)
Glenton *v.* Hewison (M for decree)
Tanner *v.* Barton (M for dec.)
Denton *v.* Stansfield
Stansfield *v.* Denton } (Furth. cons.)
Hay *v.* Ker (Further consid.)
Brumfit *v.* Morton (M for decree)
Edwards *v.* Foster (M for decree)
Scott *v.* Mayor, &c. of Liverpool (Cause)
Gooch *v.* Slater (Cause)
Forsyth *v.* Inglis (Cause)
Hartley *v.* Whorlay (M for decree)
Jesse *v.* Bennett (M for dec.)

Before Vice-Chancellor Sir W. P. Wood.

Causes, &c.

Score *v.* Score (Cause) pt. hd.
Wythes *v.* Labouchere (E to joint answer)
Wythes *v.* Labouchere (E to answer)
De la Rue *v.* Dickinson (E to answer)
Willoughby *v.* Chamberlaine (D)
Clarke *v.* Ronald (Cause)
James *v.* Page
Mingay *v.* Page } (Cause)
Manby *v.* Bewicke (Cause)
Harris *v.* Combe (M for dec.)
Marchioness of Londonderry *v.* Bramwell (M for decree)
Monypenny *v.* Monypenny (Further consideration)
Farebrother *v.* Arkell (Cause) part heard
Bennett *v.* Adamson, (Cause) part heard, *April* 28
Rowley *v.* Unwin (Further consideration)
Hicks *v.* Hastings
Hicks *v.* Hill } (Cause)
Roberts *v.* Pollard (M for decree), *April* 21
Nairne *v.* Featherston (Cause)
Featherston *v.* Featherston (Cause)
Ferris *v.* Goodburn (Cause)
Childers *v.* Childers (M for decree)
Taylor *v.* Hopkins (Cause)
Marsh *v.* Marsh (3) (Further consideration)
Fowler *v.* Pierce (M for dec.)
Foster *v.* Foster (M for dec.)
Cox *v.* Bruton (Cause)
Bairstow *v.* Heywood (M for decree)
Cramp *v.* Playfoot (M for decree)
Hounsell *v.* Edwards (Cause)
Pinnock *v.* Bailey (Cause)
Thomas *v.* Thomas (Further consideration)
Attorney-Gen. *v.* Fea (M for decree)
Chalmers *v.* Gordon (Further consideration)
Blagrave *v.* Routh (Further consideration)
Mumford *v.* Little (M for decree)
Bosville *v.* Lord Middleton (M for decree)
White *v.* M'Cullock (Cause)
Rigg *v.* Rigg (M for decree)
Johnson *v.* Coleman (Cause)
Biggenden *v.* Kennett (Further consideration)
Grant *v.* Mills (Cause)
Coombs *v.* Baker (Further consideration)
Leedham *v.* Chawner (M for decree)
Tuer *v.* Gregory (M for dec.)
Joel *v.* Mills (M for decree)
Official Manager of the Royal Bank of Australia *v.* Connell (Cause)
Stansfeld *v.* Williams (Cause)
Haberdashers' Co. *v.* Isaac (Cause)
Tovell *v.* Eastern Union Railway Co. (M for decree)
Pollard *v.* Wilson (M for dec.)
Matthews *v.* Amlott (Further consideration)
Company of Proprietors of the Leominster Canal Navigation *v.* Shrewsbury & Hereford Railway Co. (M for decree)
Dale *v.* Atkinson (Sp. case)
Browne *v.* London Necropolis & National Mausoleum Co. (M for decree)
Bolden *v.* Ricoly (Cause)
Webb *v.* Hewett (M for dec.)
Fasana *v.* Riccucci (Further consideration)
Cumming *v.* Allen (Further consideration)
Thomas *v.* Thomas (Further consideration)
Wright *v.* Lamb (Further consideration)
Parker *v.* Phillips (Further consideration)
Langdale *v.* Whitfield (M for decree)
Ekins *v.* Morris (Cause)
Couchman *v.* Dennett (Further consideration)
Poulton *v.* Smith (M for decree) *Sh*
Rushout *v.* Turner (M for decree)
Thornton *v.* Stevenson (Cau.)
Amiss *v.* Hall (Further cons.)
Startin *v.* Packover (Cause)
Carey *v.* Carey (Further cons.)
Cockram *v.* Rogers
Cockram *v.* Rogers } (Cause)
Dugdale *v.* Robertson (M for decree)
Baker *v.* Armitage (M for decree)
Payne *v.* Betley (M for dec.)

COMMON-LAW CAUSE LISTS, EASTER TERM, 1857.

Court of Queen's Bench.

NEW TRIALS

Remaining undetermined at the End of the Sittings after Hilary Term, 1857.

For Judgment.

Liv'pool—Gee *v.* Ward & ors.
Lond.—Bovill *v.* Keyworth
Essex—Lister *v.* Leather
Som'set—Woodland *v.* Fear
Manchester—Green *v.* Saddington.

For Argument.

Moved Trinity Term, 1856.

Lond.—Corke *v.* Baynton.

Moved Mich. Term, 1856.

Liv'pool—Firth *v.* Goodwin
" Harrison *v.* Ellis.

Tried during Term.

Midd.—Fisher *v.* Jordan
Lond.—Sloper *v.* Cottrell

Hilary Term, 1857.

Midd.—Fernihough *v.* Sittingbourne & Sheerness Railway Co.
" Parker *v.* Dingwall
" Edwards *v.* English
" Alderman *v.* Boddy
Lond.—Fell *v.* Burchett
" Simons *v.* Patchett
" Wheelton *v.* Hardisty
" Same *v.* Same
" Hollingworth *v.* Buxton.

Tried during Term.

Midd.—Haigh *v.* Onsey.

SPECIAL CASES.

For Easter Term, 1857.

Those marked thus * are Special Cases, and thus † Demurrers.

For Argument.

†Chamberlaine *v.* Willoughby
†Poole *v.* Prew
Evans *v.* Mathias (Appeal from County Court, Cardigan)
*Blackwell *v.* Wheatcroft
*Harding *v.* Nott
*Moran *v.* Jones
*Bains *v.* Jackson & ors.
†Poole *v.* Timber Preserving Co.
†Croshaw *v.* Naylor
†Coleman *v.* Knowles
†Vestry of the Parish of St. Pancras *v.* Morgan
*Sturgis *v.* Bishop of London
*Villers *v.* Hargreaves
†Warburg *v.* Tucker
*Hudson *v.* Official Manager of the Royal Bank of Australia
†Badger *v.* Finch
†Lawson *v.* Parkinson
†Beaver *v.* Mayor, &c. of Manchester
†Warden *v.* Stone
†Trevelyan *v.* Richards
Turner *v.* Schmalz (Appeal from County Court, Newcastle).

ENLARGED RULES

For Easter Term, 1857.

First Day.

Sennett *v.* Bosanquet
Walker *v.* Sleigh
Reg. *v.* Inhabitants of Aberysker
Reg. *v.* Metropolitan Board of Works.

Fourth Day.

In re Richards.

Fifth Day.

Reg. *v.* Lees.

CROWN PAPER, EASTER TERM, 1857.

Wednesday, April 22.

Oxfordshire .. Reg. *v.* Vice-Chancellor of the University of Oxford.
Birmingham .. ——— Smith.

Glamorganshire Reg. *v.* Taff Vale Railway Co.
Brighton ..... ——— Beadle.
Northamptonsh. ——— Higham.
Yorkshire .... ——— Inhabitants of Leeds.
Middlesex .... ——— Vestry of St. Pancras.
Carnarvonshire ——— Inhabs. of Llanrwst, Denbighshire.
Hull .... ——— Barkworth.
Lancashire.... ——— Gerrard.
Norwich...... ——— Wells.

Wednesday, April 29.

Essex........ ——— Eyre.

◆

Court of Common Pleas.

NEW TRIALS.

Mich. Term, 1856.
Lond.—Tetley *v.* Easton
„ Campbell *v.* Corley
„ Taylor *v.* Stray
„ Cockerell *v.* Aucompte

Hilary Term, 1857.
Midd.—Great Northern Railway Co. *v.* Wyles
Lond.—Hodgkinson *v.* Fernie

Lond.—Simond *v.* Braddon
„ French *v.* Styring
„ Muskett *v.* Bird
„ Gorrisen *v.* Perrin
„ Wickens *v.* Steel
Midd.—Giles *v.* Spencer
Lond.—Michael *v.* Gillespie
Midd.—Patten *v.* Rea
„ Pound *v.* Dawson
„ Roberts *v.* Eberhardt.

DEMURRER PAPER.

Those marked thus * are Special Cases, and thus † Demurrers.

Wednesday, *April* 15
Thursday 16
Friday.......... 17
Saturday 18
} Motions in arrest of judgment.

Monday, April 20.
†Tobias *v.* Jarchow (To stand over till Exposit *v.* Bowden, in Exch. Ch., is disposed of)
London and North-western Railway Co. *v.* Grace (Appeal from County Court), (To be amended)
†Goodman *v.* Spencer
†Florence *v.* Jenings
†Jenings *v.* Florence
*Gilkison *v.* Middleton.

Thursday, April 23.
†Tindall *v.* Hibberd
†Bloomer *v.* Darke

Monday .. *April* 27
Thursday 30
} Special arguments.

ENLARGED RULES.

First Day.
In re Healey
In re Cormer
Hodges *v.* Callaghan
In re Duncombe
Walter and Wife *v.* Whitaker
Dawson *v.* Williams (Until sp. case in Q. B. is disposed of).

CUR. ADV. VULT.

Fraser *v.* Hatton
Loder *v.* Kekule.

◆

Court of Exchequer.

SITTINGS—EASTER TERM, 1857.

Days in Term.		*Banc.*
Wednesday, *April*	15	Motions and Peremptory Paper.
Thursday	16	Errors, Peremptory Paper, & Motions.
Friday	17	....
Saturday........	18	....
Monday	20	Special Paper.
Tuesday	21	....
Wednesday......	22	Special Paper.
Thursday	23	....
Friday	24	....
Saturday	25	Criminal Appeals.
Monday	27	Special Paper.
Tuesday	28	....
Wednesday......	29	Special Paper.
Thursday	30	....
Friday ...... *May*	1	....
Saturday	2	....
Monday	4	Special Paper.
Tuesday	5	....
Wednesday......	6	....
Thursday	7	....
Friday	8	....

Days in Term.		*Nisi Prius.*
Thursday.... *April*	16	Middlesex, first Sitting.
Wednesday	22	London, first Sitting.
Friday	24	Middlesex, second Sitting.
Wednesday	29	London, second Sitting.
Friday ...... *May*	1	Middlesex, third Sitting.

NEW TRIALS.

For Judgment.
Lancast.—Warburton *v.* Packe
Cambridge—Gelen *v.* Hall

For Argument.
Lond.—Bovill *v.* Pimm.
Guildford—Smith *v.* Winder
Cambridge—Gelen *v.* Hall.

Moved Hilary Term, 1857.
Midd.—Hills *v.* London Gaslight Co.
Midd.—Abrahams *v.* Milsom
Lond.—Booth *v.* Kennard.

Moved after the fourth Day of Hilary Term, 1857.
Midd.—Bourd *v.* Britten
„ Bunn *v.* Totterdell
„ Lee *v.* Everest
„ Ambrose *v.* Cook
Lond.—Jupp *v.* Richardson
„ Randall *v.* Luck
„ Lard *v.* Apothecaries' Co.

SPECIAL PAPER.

For Judgment.
Oldershaw *v.* King.

For Argument.
Doe *d.* Hughes *v.* Probert (Standing for arrangement)
Brewer *v.* Dimmack (Standing for arrangement)
Churchward *v.* Foss (Stayed by injunction)
Lyndon *v.* Stanbridge
Ellis *v.* London and South-western Railway Co. (To stand over till issues in fact tried)
Clements *v.* Kibbin
Knight *v.* Gravesend & Milton Waterworks Co. (Standing for arrangement)
Lister *v.* Witham
Gibbs *v.* Grey
Grey *v.* Gibbs
Smalley *v.* Blackburn Railway Co.
Biss *v.* Allen
Governor and Co. of the New River *v.* Commissioners of Land Tax at Great Amwell, Herts
Shilling *v.* Bishopp
Cooper *v.* Woolfit
Barstow *v.* Reynolds
Barnes *v.* Hayward.

PEREMPTORY PAPER.

To be called on the first Day of Term after the Motions, and to be proceeded with the next Day, if necessary, before the Motions.

Whaley *v.* Laing (Ordered to stand over for arrangement).

ERRORS AND APPEALS FROM THE COURT OF EXCHEQUER.

For Judgment.
Chasemore *v.* Richards
Muggleton *v.* Barnett.

For Argument.
Gibbs *v.* Trustees of the Liverpool Docks (Part heard)
Rackham *v.* Marriott
Graves *v.* Legg
Llewellyn *v.* Company of Proprietors of the Swansea Navigation
Laurie *v.* Clerk.

By virtue of an act, No. 31, of the Governor and Legislative Council of the colony of South Australia, dated the 18th June, 1856, Charles Cooper, Esq., the Senior Judge of the Supreme Court of that colony, has been created Chief Justice of that Court.

MEETINGS.

James Beech Hill, Blackfriars-road, Surrey, glass dealer, May 4 at 11, London, aud. ac.; May 6 at 1, div.—*Samuel Bone* the elder, Dagenham, Essex, beer-shop keeper, April 29 at 11, London, aud. ac.—*John Ados Pervanoglu*, Union-court, Old Broad-street, merchant, April 29 at 11, London, aud. ac.—*Walter Robert Johnson*, Adelaide-chambers, Gracechurch-street, underwriter, April 24 at 12, London, aud. ac. —*Samuel Potter*, High-st., Marylebone, livery-stable keeper, April 24 at 11, London, aud. ac.—*Wm. Joseph White* and *Lacey Bathurst*, Regent-street, Westminster, drapers, April 24 at half-past 11, London, aud. ac.—*Edward Blakely*, Conduit-street, Regent-street, Westminster, and Norwich, linendraper, April 24 at 2, London, aud. ac.—*Henry Hall* and *Cheslyn Hall*, New Boswell-court, Lincoln's-inn, and Neasdon, Middlesex, cattle dealers, April 24 at 1, London, aud. ac.—*Edward Over*, Barossa-terrace, Cambridge-road, Bethnal-green, oilman, April 24 at 1, London, aud. ac.—*Henry Garnett*, Dover, Kent, stationer, April 30 at 1, London, aud. ac.—*Frederick Kindred*, Framlingham, Suffolk, miller, April 30 at 12, London, aud. ac.—*John Dangerfield* the elder, Kirkley, Suffolk, builder, April 30 at 12, London, aud. ac.—*Wm. Edward Hawkey*, Sykes-terrace, Mile-end-road, tailor, April 30 at 1, London, aud. ac.—*Joseph Carneau*, Liverpool, merchant, April 28 at 11, Liverpool, aud. ac.; May 11 at 11, div.—*W. Lawford*, Liverpool, oil crusher, May 7 at 11, Liverpool, aud. ac.; May 14 at 11, div.—*H. M. Manwaring*, Toxteth Park, near Liverpool, grocer, May 1 at 11, Liverpool, aud. ac.—*R. Greene*, Lichfield, banker, May 1 at half-past 11, Birmingham, aud. ac.—*George Ogden Brown*, Sheffield, timber merchant, April 25 at 10, Sheffield, aud. ac.—*George Ridge* and *Thomas Jackson*, Sheffield, stationers, April 25 at 10, Sheffield, aud. ac. joint est., and sep. est. of *G. Ridge*.—*Jos. Dickinson*, Harrogate, Yorkshire, lodging-house keeper, April 27 at 11, Leeds, aud. ac.—*John Marshall*, Bradford, Yorkshire, brewer, April 27 at 11, Leeds, aud. ac.—*J. Kennard*, Little Queen-street, Holborn, ironmonger, May 7 at 11, London, div.—*Charles Venables* the younger, Cliefden Taplow, Soho, and Prince's Paper Works, Buckinghamshire, paper manufacturer, May 6 at half-past 11, London, div.—*John Jas. Vonder Heyde* and *Christopher Octavius Vonder Heyde*, Lower Thames-street, tobacco manufacturers, May 5 at half-past 11, London, div.—*Wm. Eames Heathfield* and *Wm. Aburrow*, Princes-square, Finsbury, manufacturing chemists, May 5 at 1, London, div.—*George Travis*, Oldham, Lancashire, flour dealer, May 8 at 1, Manchester, aud. ac.; May 15 at 1, div.—*G. Wood*, Loughborough, Leicestershire, wharfinger, May 19 at half-past 10, Nottingham, aud. ac. and div.—*Edmund Roberts*, Derby, jeweller, May 19 at half-past 10, Nottingham, div.—*John Moats* the elder, Spalding, coal merchant, May 19 at half-past 10, Nottingham, div.—*W. Fryer*, Nottingham, wholesale draper, May 19 at half-past 10, Nottingham, div.—*Edwin John Hodder*, Birmingham, grocer, May 6 at half-past 11, Birmingham, div.—*Edward Goldsmith*, Nottingham, tailor, May 19 at half-past 10, Nottingham, div.—*Joseph Leeming* the younger, Hartlepool, Durham, whitesmith, May 5 at 11, Newcastle-upon-Tyne, first and fin. div.—*George Cavens*, Carlisle, jeweller, May 6 at half-past 12, Newcastle-upon-Tyne, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Wm. B. Chorley, Hart-street, Bloomsbury, Middlesex, and Cwmorthin, Festiniog, Merionethshire, slate merchant, May 7 at half-past 11, London.—*John Sworder*, Ware, maltster, May 14 at 2, London.—*F. Perrin*, Cleveland-street, Fitzroy-square, dealer in foreign woods, May 6 at 12, London.—*Jas. B. Hill*, Blackfriars-road, glass dealer, May 6 at half-past 1, London.—*Alfred Blackmore*, High-street, Shoreditch, hosier, May 6 at half-past 12, London.—*George Groom*, Norwich, shoe factor, May 5 at 2, London.—*Joseph Van Raalte* the younger, Gloucester-terrace, St. John's-road, Hoxton, importer of French goods, May 6 at 12, London.—*R. Barwick*, Sunderland, shipowner, May 8 at 11, Newcastle-upon-Tyne. —*H. F. Jörss*, Manchester, merchant, May 8 at 1, Manchester.—*John Weston*, Mottram in Longdendale, Cheshire, manufacturing chemist, May 6 at 12, Manchester.—*G. Wood*, Loughborough, Leicestershire, wharfinger, May 5 at half-past 10, Nottingham.—*Wm. H. Broadhead* and *Wm. Broadhead*, Nottingham, builders, May 5 at half-past 10, Nottingham.—*Robert Senior* and *Stephen Senior*, Staincliffe, Batley, Yorkshire, blanket manufacturers, May 5 at 11, Leeds.

To be granted, unless an Appeal be duly entered.

S. L. Coleman, Norwich, draper.—*E. Goddard*, London-wall, Old Jewry, Fenchurch-street, and Aldgate, provision dealer.—*John H. Stevens*, Great Wild-street, Lincoln's-inn-fields, engraver.—*G. C. Postans*, Newmarket All Saints, Cambridgeshire, grocer.—*J. K. Inge*, Littlebourne, Kent, brewer. —*Wm. Woods*, Union-street, Southwark, hook and eye manufacturer.—*James Schofield*, Ashton-under-Lyne, tailor.—*C. H. Thompson*, Conisbrough, Yorkshire, common brewer. —*John Houldsworth*, Sheffield, builder.—*Geo. Foster*, Horbury, Yorkshire, worsted spinner.

PETITIONS ANNULLED.

Thomas Atkinson, Brearley, near Luddenden Foot, Yorkshire, woollen manufacturer.—*E. G. Brocklehurst*, Liverpool, hose manufacturer.

PARTNERSHIPS DISSOLVED.

Wm. H. Moberly and *Thos. Goater*, Southampton, attornies and solicitors.—*George Gray* and *Henry Godwin*, Newbury, Berkshire, solicitors and attornies, (under the firm of Gray & Godwin).

SCOTCH SEQUESTRATIONS.

Thomas Rodger, Coatbridge, Old Monkland, Lanarkshire, grocer.—*Charles Manson*, St. Andrews, potato merchant.—*James Adam*, Port-Glasgow, joiner.—*Wm. Wilson*, Wallacetown, St. Evox, Ayrshire, farmer.—*Davis, Martin, & Co.*, Glasgow, drapers.—*Wm. Wilson*, Cloverhill, Ayrshire, cattle dealer.—*D. Govan*, Glasgow, cowfeeder.

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GAZETTES.—Friday, *April* 17.

Bankrupts.

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FREDERICK LETT, High-street, Lambeth, and Lavender-villas, Battersea, Surrey, potter, April 23 and May 21 at 1, London: Off. Ass. Johnson; Sol. Phillips, 4, Sise-lane.—Pet. f. April 15.

ALEXANDER BLOXHAM HENDERSON, London-st., Paddington, livery-stable keeper, April 29 at 2, and May 26 at 12, London: Off. Ass. Stansfeld; Sol. Voules, 16, Gresham-street, City.—Pet. f. April 16.

JOSEPH SMITH, Broad-street, Lambeth, Surrey, dealer in iron, April 28 at 2, and May 29 at 11, London: Off. Ass. Cannan; Sols. Tippetts & Son, 2, Sise-lane.—Pet. f. April 11.

WILLIAM JAMES TAYLER, Albion-terrace, De Beauvoir-square, Kingsland, cabinet maker, April 28 at 2, and May 26 at 1, London: Off. Ass. Edwards; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. April 15.

WILLIAM ADAMS, Huntingdon, miller, April 30 and May 26 at 2, London: Off. Ass. Edwards; Sols. Hallen, Huntingdon; Bird & Moore, 5, Gray's-inn-square.—Pet. f. April 9.

WILLIAM TENT, Royal Exchange, City, hosier, April 30 at half-past 2, and May 26 at 1, London: Off. Ass. Lee; Sols. Hillyer & Fenwick, 8, Fenchurch-street.—Pet. f. April 16.

THOMAS RICHARDS, Aberystwith, Cardiganshire, draper, May 4 and June 1 at 11, Bristol: Off. Ass. Acraman; Sols. Brittan & Sons, Bristol.—Pet. f. April 4.

GEORGE JAYNE the younger, Newport, Monmouthshire, builder, (lately carrying on business as a sawyer with John Phillpotts, at the Newport Steam Sawing Mills, Newport), April 27 and May 25 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Girling, Bristol.—Pet. f. April 15.

RICHARD WINTER NEAVE, Market Rasen, Lincolnshire, and Sheffield, Yorkshire, miller, May 6 and June 3 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Daubney, Market Rasen; Stamp & Jackson, Hull.—Pet. d. April 15.

SAMUEL DALTON, DANIEL DALTON, and ALFRED DALTON, Chester, ironmasters, (carrying on business at Leeswood, Mold, Flintshire, under the style or firm of the Leeswood Iron Company), April 28 and May 25 at 11, Liverpool: Off. Ass. Cazenove; Sols. Cooper & Sons, Manchester; Dodge, Liverpool.—Pet. f. March 11.

ANDERSON STOKOE, Findon-hill, Durham, grocer, April 27 at 11, and June 9 at 1, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Watson, Newcastle-upon-Tyne; Harwood, 10, Clement's-lane, Lombard-street.—Pet. f. April 7.

Meetings.

Samuel Sketchley, Horncastle, Lincolnshire, scrivener, April 28 at 12, Kingston-upon-Hull, aud. ac.; April 29 at 12, pr. d.—*W. Doeg* and *J. Skelton*, Newcastle-upon-Tyne, timber merchants, April 28 at half-past 11 and 12, Newcastle-upon-Tyne, aud. ac. joint and sep. ests.; at 12, pr. d. sep. est. of *J. Skelton*.—*Robert Rumney Charles* and *William Fordyce*, Haughton, Northumberland, paper manufacturers, May 5 at 12, Newcastle-upon-Tyne, last ex.—*Charles Fox*, Hulme, Manchester, flour dealer, April 30 at 12, Manchester, last ex.—*George Woodall*, Carlisle, Cumberland, grocer, April 28 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*John Evans*, Kidderminster, Worcestershire, cordwainer, April 27 at 10, Birmingham, aud. ac.—*Walter Milligan*, *Wm. Gandy*, and *George Gandy*, Bradford, Yorkshire, stuff merchants, April 30 at 11, Leeds, aud. ac. sep. est. of *Wm. Gandy*.—*Thomas Turton Clarke* and *James Wade*, Huddersfield, Yorkshire, woollen-yarn manufacturers, April 30 at 11, Leeds, aud. ac.—*Simon Cohen* and *Joseph Lubliner*, Hatton-garden, Middlesex, manufacturing goldsmiths, May 8 at 11, London, div.—*Charles Cannon*, Love-lane, Eastcheap, City, fish salesman, May 8 at 2, London, div.—*Thomas Butt*, Littlehampton, Sussex, ironmonger, May 8 at 11, London, div.—*John Tanner*, Chippenham, Wiltshire, and Bath, Somersetshire, common carrier, May 14 at 11, Bristol, fin. div.

Certificates.

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Samuel Howell Grieveson and *Cuthbert Richardson Grieveson*, Sunderland, Durham, joiners, May 8 at 12, Newcastle-upon-Tyne.—*Jesse Wilkinson*, Lindley, Huddersfield, Yorkshire, woollen-cloth manufacturer, May 8 at 11, Leeds.—*Robert Spendlove*, Sheffield, Yorkshire, cattle dealer, May 9 at 10, Sheffield.—*Francis Bee*, Sheffield, Yorkshire, table-knife manufacturer, May 9 at 10, Sheffield.

To be granted, unless an appeal be duly entered.

Joseph Hale Bryan, Lambeth-walk, Surrey, oilman.—*William Burch*, Back-hill, Hatton-garden, boot-tree maker.—*Joseph Leeming* the younger, Hartlepool, Durham, whitesmith.

Petition Annulled.

William Popham Davis and *James Davis*, Cardiff, Glamorganshire, slate merchants.

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Tuesday, *April* 21.

Bankrupts.

LEONARD DALTON, Canal Bridge, Old Kent-road, Surrey, stone merchant, May 5 at half-past 2, and June 2 at 1, London: Off. Ass. Lee; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. Feb. 25.

GEORGE BROOKE, Leadenhall-market, London, and Windsor, provision dealer, May 5 at 12, and June 2 at 1, London: Off. Ass. Edwards; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. April 20.

ROBERT ASHLING, Duxford, Cambridgeshire, brewer, May 4 and June 3 at 11, London: Off. Ass. Pennell; Sols. Probert & Wade, Saffron Walden, Essex; Aldridge & Bromley, South-square, Gray's-inn.—Pet. f. April 15.

SAMUEL JOSEPH SMITH, Birmingham, auctioneer, May 1 and 22 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Knight & Suckling, Birmingham.—Pet. d. April 17.

HENRY NOELL, Phillack, Cornwall, accountant, April 30 and May 28 at 1, Exeter: Off. Ass. Hirtzel; Sol. Roscorla & Davies, Penzance; Stogdon, Exeter.—Pet. f. April 17.

FREDERICK BLIEDBERG and MARC SARAN, Liverpool, commission merchants, May 4 and June 1 at 11, Liverpool: Off. Ass. Cazenove; Sols. Holden & Son, Liverpool.—Pet. f. April 17.

THOMAS EVANS, Newtown, Montgomeryshire, flannel manufacturer, May 4 and June 1 at 11, Liverpool: Off. Ass. Cazenove; Sol. Jones, Newtown.—Pet. f. April 18.

MICHAEL NEVILLE, Liverpool, brassfounder, May 8 and 28 at 12, Liverpool: Off. Ass. Bird; Sol. Dodge, Liverpool.—Pet. f. April 17.

JOHN WICK, Sheffield, electro-plater, May 2 and June 6 at 10, Sheffield: Off. Ass. Brewin; Sols. Smith & Burdekin, Sheffield.—Pet. d. April 14.

JOHN SHAW and JOSEPH SHAW, Sheffield, tailors, May 2 and June 6 at 10, Sheffield: Off. Ass. Brewin; Sol. Broadbent, Sheffield.—Pet. d. April 15; f. April 16.

JOHN PEPPER and EDWIN ADDY HOLMES, Sheffield, grocers, May 9 and June 6 at 10, Sheffield: Off. Ass. Brewin; Sols. Chambers & Waterhouse, Sheffield.—Pet. d. and f. April 15.

Meetings.

John Dickson, Fleet-street, London, and Swansea, Glamorganshire, builder, May 5 at 12, London, last ex.—*F. Martin*, Brighton, innkeeper, May 5 at 1, London, last ex.—*Richard Griffith* the elder and *Richard Griffith* the younger, Hatton-wall, and St. James's-walk, Clerkenwell, brassfounders, May 5 at 2, London, last ex.—*Wm. Doeg* and *John Skelton*, New-

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By G. FRANCIS, Barrister at Law.

Reg. v. Gorbutt.—(*Larceny—Embezzlement—Evidence*—14 & 15 *Vict. c.* 100, *s.* 13)............. 371

THE JURIST.

LONDON, APRIL 25, 1857.

WE next come more particularly to consider the distinction between a fraudulent execution of a power to appoint amongst children, and an appointment which will be only partially avoided, the scope of the authority having been exceeded through ignorance or misapprehension, but unmixed with any fraudulent design. In *Agassiz* v. *Squire* (18 Beav. 431; S. C., 1 Jur., N.S., part 1, p. 50) the Master of the Rolls stated the general maxim in language more full, but very similar to that employed by Lord Keeper Henley. "If," he said, "the Court sees that the real object of the execution by the donee is to do something which was never contemplated by the donor at all, which in point of fact is excluded by him—if that is the object of the exercise of the power, I think it is a fraud on the power, and void. If there is a desire bonâ fide to execute in favour of the objects of the power, and in so doing the donee goes beyond it, then the power itself may be supported, and it will only be void for the excess." But at the same time his Honor professed himself unable to discover a frame of expression that in every instance would clearly point out by which of the two rules the decision should be governed. In that case of *Agassiz* v. *Squire*, under an exclusive power to a wife to appoint amongst her sons and her sons' sons by a former marriage, an appointment by her, which exceeded the scope of her authority, by giving a benefit to a daughter, was annulled in toto, not on that account, but because the appointment was also tainted by a bargain for the advantage of the second husband of the donee of the power. The excessive execution in favour of the daughter might alone have been held void had that been the single objection to the appointment; but the fraudulent intention of securing a benefit to the husband, who by the instrument creating the power was excluded from being an appointee, vitiated the whole transaction. The case was well distinguished by the Master of the Rolls from that of "a common execution of a power in favour of persons not the objects of it—such as a power in favour of children, where, in addition to children, the power may have been executed in favour of some grandchildren as appointees, in addition to, or in the place of, their parents deceased." An example of the latter kind is afforded by the case of *In re Lord Sondes's Will*, (2 Sm. & G. 417), where an appointment of an absolute interest to an object of the power, which, if standing alone, would have been valid, was coupled with additional words, by which, in excess of the power, the children of that object were also made appointees; and it was held that the additional words were to be rejected as nugatory, and that the absolute interest vested in the first appointee. An appointment to a child or children, with a condition annexed not authorised by the terms of the power, is attended with much the same consequences as an excessive execution of the ordinary kind—that is, the condition, which is in excess of the power, will be considered altogether inoperative. (*Watt* v. *Creyke*, 3 Jur., N. S., part 1, p. 56). But this rule seems to proceed rather upon the principles which relate to estates upon condition subsequent, and also perhaps upon the ground that there is no difficulty in separating the valid from the invalid part of the appointment, than upon any presumption, arising from the form of the executing instrument, that the real aim of the donee was to effectuate the intention of the donor of the power. For if the parent annex to the appointment a condition for his own benefit, yet the appointment may be maintained intact, and unfettered by the restriction which the condition imposes; although, as we have seen, the exercise of the power upon a bargain or secret understanding with the child, whereby a profit to the parent out of the estate or fund appointed is made the consideration of the appointment, is regarded as a fraud upon the power, and wholly avoided accordingly. If, however, where there is a power of selection, the condition is to take effect in favour of other objects of the power, so that the result of the whole instrument amounts to a limitation to one object, with a gift over to another object or other objects, if certain acts be not done—as a limitation to a daughter, provided she makes a payment out of the fund appointed, or assigns her interest in another fund to her brothers, and if she does not make this payment or assignment, then a gift over of the fund to her brothers, to whom it might have been appointed in the first instance—such a condition is good, as being within the scope of the power. (*Stroud* v. *Norman*, 1 Kay, 313; S. C., 18 Jur., part 1, p. 264). There is one rather perplexing case, that of *Jebb* v. *Jugwell*, (1 Jur., N. S., part 1, p. 460), in which it is a little difficult to pronounce whether the power was merely excessively executed, or whether the whole appointment ought to have been set aside for fraud. In that case A. by his will gave all his real and personal estate to his wife during her life; and after her decease, to his daughters, in such proportions as his wife by any legal instrument might direct; and in default of appointment, to be equally divided between them; and he further declared his will to be, that the fortune of each of his daughters should go to her children after her decease, in such proportions as she might direct; but if no appointment, to be equally divided between them. A. died, leaving his widow and his two daughters B. and C., who were both married, surviving. Shortly after A.'s death, his widow, by deed-poll, purporting to be in exercise of her power, appointed one moiety of the property after her decease to such uses as B., notwithstanding coverture, should appoint, and in default of appointment, to B. absolutely; and the other moiety to C. in like manner; and directed that the appointment should take effect immediately. On the following day the daughters and their husbands executed an indenture, whereby the former, in pursuance of the authority supposed to be created by the widow's deed-poll, settled their respective moieties upon similar trusts for the benefit of themselves, their husbands, and children, with mutual limitations of the estates in favour of each daughter and her family in the event of the other dying without issue. There could not be much doubt that this settlement was void, so far as it delayed the interests of the daughters' children, which the terms of the will clearly put out of the power both of the widow and her daughters to affect otherwise than by apportionment of the shares. The settlement, however, expressed the intention of B. and C. and their husbands, that, notwithstanding it might in some measure be defeated by the children, it should in all other respects be carried into effect. The Master of the Rolls nevertheless held the settlement to be altogether void, inasmuch as it was founded upon an authority which the power given by the testator to his widow did not enable her to create. His Honor held that the object of the instrument containing that power was to make a provision for A.'s daughters, in such shares as his widow might think fit to appoint, but by no means to dispense with the protection which the law affords to married women, by the restraints it imposes upon the alienation of their reversionary property during coverture; whereas, on the other hand, the real object of the appointment by the widow was to enable the daughters during coverture to dispose of their reversionary interests, and so to overcome the disabilities which the testator intended should attach to his gift. He concluded, therefore, that the deed-poll was either wholly inoperative, or that it was good only so far as it divided the property of the testator equally between his two daughters. In the result, in this particular instance, it made no difference which of these two alternatives was adopted; but, upon principle, we think that it should have been held that the appointment was wholly void, and that the property went as in default, since the execution of the power was decided to have been at variance with the whole scope of the instrument creating it, and a direct attempt to elude the intention of the donor. As observed by the Master of the Rolls, the appointment was vicious in principle, and in the object sought to be attained; and therefore, although it might have been difficult to say that the donee knew she was not exercising her power for the benefit of her children, she can hardly be supposed to have thought she was exercising it for their benefit in accordance with the object of the donor. In the above case one of the daughters, B., had no children, and it was held, that according to the true construction of the will, B., after the widow's decease, and in default of appointment by her, was entitled to one moiety of the testator's property absolutely. With respect to B.'s moiety, the effect of the appointment and settlement together would have been to give a life interest to B., with divers remainders over in favour of B.'s husband and her sister's family; and in support of the validity of the transaction the case of *Phipson* v. *Turner* (9 Sim. 227; S. C., 2 Jur. 414) was cited, where, under an exclusive power, the fund was appointed to one of the children, a married daughter, for life, for her separate use; and after her decease, as she should by will appoint; and in default of appointment, and if she left no issue, unto two sons, who were also objects of the power; and this appointment was held valid. This case of *Phipson* v. *Turner* is merely an example of the proposition, that a power to appoint in such proportions as a party pleases authorises the donee to create various estates under it, and to give qualified interests; and in *Jebb* v. *Jugwell* the Master of the Rolls said, that if the sole object of the deed-poll had been to ascertain the shares in which the daughters were to take, and not to enable them to dispose of their reversionary interests, the widow might, in accordance with the decision in *Phipson* v. *Turner*, have given qualified interests in the property to her daughters, provided she parcelled out the whole between them. It would seem, therefore, that with respect to B.'s share, if the will had left the daughters unrestrained as to the disposition of this property before they came into possession, the settlement would have been good also; because it is established, that in the absence of fraud, an appointment to a child, and then, as part of the same transaction, a settlement by the child upon other persons not objects of the power, or an appointment at once to persons not objects of the power, with the approbation of the child, who is the real object, (which is looked upon in the same light as an appointment to the object, and then a settlement by the object), may be valid. Thus, if B. had been a son, and the widow had appointed one moiety of the property as B. should appoint, and B. had settled the property upon his wife and children, or his sister's children, the transaction would have been unimpeachable; and it is to be observed, that this rule prevails even where the power is not exclusive, but merely authorises an apportionment of the shares. But all such cases will be closely watched, and if there are any circumstances which shew a design to neglect the benefit of the objects of the power, or in any way to defeat the intention of the donor, or if there was not an express and voluntary consent to the settlement on the part of the child, the appointment will be void. A question of this nature arose in the case of *Salmon* v. *Gibbes*, (3 De G. & S. 343; S. C., 13 Jur., part 1, p. 355). There a fund was bequeathed in trust for A. for life; and after A.'s decease, for all and every the children of A., at such ages or times, and in such proportions, as A. should by deed or will appoint; and in default of appointment, to be divided equally between them. A., having two daughters, her only children—B., a spinster, and C., a married woman—appointed by deed twenty-four twenty-fifths of the fund, subject to her own life interest therein, to B. absolutely. On the following day, B., in pursuance of a promise previously given to her mother to make a provision for C. and her children, executed a settlement, whereby she assigned one-half of the whole fund upon trust for C. for her separate use during her life; and after C.'s death, to be divided equally between her children. It was proved in the cause, that C. never knew of the settlement until several years afterwards, when she was induced to execute a deed of appointment of a new trustee of the settlement, upon being informed, as was the fact, that the original appointment and settlement had been executed with a view of excluding her husband from all benefit. Upon a bill filed by the husband the Vice-Chancellor set aside the whole transaction as a fraud upon the power. The judgment is rather meagre, but his Honor's decision appears to have proceeded on the ground that the transaction really amounted to an appointment of a moiety of the fund to C., and then a settlement of the appointed share for the benefit of C. and her children, *without the consent of either C. or her husband*. We do not quite see how the non-consent of the husband could have affected the case; for an appointment of a moiety of the fund to C. for her separate use would undoubtedly have been good; and as the property was personal, C. might then have disposed of her interest, although reversionary, in any way she chose. Otherwise this case seems to us to afford a very apt illustration of the principle under discussion; and it likewise shews how studiously a Court of equity will seek out the purpose which the donee had in view when executing the power, and, while it disregards the form, will scrupulously examine the effect of the instrument by which that purpose is sought to be accomplished.

We have now noticed the most important of those cases of which we proposed to treat respecting the validity of appointments to children, and we think we are justified in coming to a conclusion—which must be a matter of congratulation to all who are jealous of the uniformity of the law and the harmony of judicial opinions—that these cases, while they exemplify very fully the bearing and limits of the rules laid down by Lord St. Leonards in his standard treatise upon the subject, yet do not tend in any degree to repudiate the principles which he has enunciated, or to weaken the authority of the ancient law.

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The decision with regard to dock warrants which created so much surprise, not to say alarm, in the mercantile world can scarcely possess more interest than the now pending point of law respecting crossed cheques. To a country like ours, dependent for prosperity upon its commerce, negotiable instruments are of primary importance. It is not, therefore, surprising that the laws regulating the rights and liabilities of bankers and their customers, with regard to forged cheques paid by the bank, are so well ascertained that questions of novelty and difficulty rarely occur. The point in *Simmonds* v. *Taylor**, which was tried before the Lord Chief Justice of the Common Pleas on the 16th February last, involves the construction to be put upon the recent act relating to drafts on bankers, (19 & 20 Vict. c. 25). The London Joint-stock Bank having paid a crossed cheque, from which the crossing had been fraudulently erased, the question was, whether the bank or the customer should bear the loss; and it is to the facts of the case, and to the unsatisfactory state of the law under that statute, that we propose to direct the attention of our readers. Shortly stated, the facts were these:—The plaintiff, a customer of the bank, having drawn a cheque for 125*l.*, payable to bearer, crossed in blank in the usual way, with the words "& Co.," caused it to be sent to the person to whom he intended to pay it. It was transmitted by post, but in its passage through the post the letter containing it was lost. The empty envelope, with the words "the finder is much obliged" written on it, was left at the house to which the letter had been addressed, and some stranger presented the cheque at the bank, and it was paid over the counter in the ordinary course of business. Before it was presented the crossing had been obliterated with such nicety as almost to defy detection, and, at the time when it was presented, there was nothing at once visible to the naked eye to shew that it had been crossed, and it was only by the closest scrutiny, as by holding it up to the light, that the crossing could be discovered. Now, the stat. 19 & 20 Vict. c. 25, s. 1, provides as follows:—"In every case where a draft on any banker, made payable to bearer or to order on demand, bears across its face an addition in writing or stamped letters of the name of any banker, or of the words 'and company' in full or abbreviated, either of such additions shall have the force of a direction to the bankers upon whom such draft is made, that the same is to be paid only to or through some banker, and the same shall be payable only to or through some banker." The question arising on the statute was complicated at the trial by the charges of negligence which were made on both sides; but the jury found that there was no negligence on either side, either on the part of the plaintiff in drawing, crossing, or transmitting the cheque, or on the part of the bank in paying it. The point reserved was, therefore, disembarrassed of the difficulties arising out of disputed facts, and is simply, whether, in the absence of negligence on either side, upon the application of the 19 & 20 Vict. c. 25, s. 1, to the facts above narrated, the bank or the customer is to bear the loss. It will be further necessary to decide whether the fraudulent obliteration of the crossing of a cheque amounts to forgery, and whether a banker is relieved from liability when a cheque bears no traces of crossing visible at once when it is presented, though it was crossed before it left the hands of his customer.

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* See the *Times*, Feb. 17, and ante, p. 185.

It is undoubtedly the law, that in general, if a banker pays a forged cheque, though in the ordinary course of business the forgery could not be discovered, he is bound to pay the amount again to his customer—that is, provided the customer has used due care in the drawing. (*Hall* v. *Fuller*, 5 B. & Cr. 750; *Young* v. *Grote*, 4 Bing. 258; *Marzetti* v. *Williams*, 1 B. & Ad. 415). The principle upon which this obligation is cast upon the banker is, that it is his duty, arising out of his employment, to be acquainted with his customer's handwriting; and that the payment of a forged cheque is an act done without authority—an unforeseen and accidental circumstance—proceeding not "ex causâ mandati sed occasione tantum"—against which an indemnity by the customer is not to be implied. (*Hall* v. *Fuller*, 5 B. & Cr. 752, referring to Pothier's Treatise du Contrat du Change). It seems clear also that the banker's liability is not confined to written forgeries. Where the pieces of a cancelled cheque, which had been torn up, were pasted together, and it was paid under circumstances of negligence, the banker was held liable. (*Scholey* v. *Ramsbottom*, 2 Camp. 485). It is to be expected that the decision of the Court upon the point reserved will be guided by these principles; but at the trial the Chief Justice declined giving an opinion as to the construction of the statute, and it would be worse than idle to speculate on the result. The principle object for which we notice the case is to warn the Profession and the public against the defective state of the law in general with respect to crossed cheques, and the jeopardy in which their transactions, by means of these instruments, are involved by the statute. The act was passed for the purpose of settling the much vexed question as to the obligation of a banker to pay a crossed cheque only to or through another banker; and if it had succeeded in doing that alone, it would have done well. But it appears to us that by implication it does more than that, and more than was contemplated by the Legislature: it makes the crossing a material part of the instrument, which it was not before. (*Bellamy* v. *Majoribanks*, 7 Exch. 403). It gives an entirely new legal effect to it, and to any alteration in it; and consequently, although, before the act, a bonâ fide holder of a cheque payable to bearer might strike out a special crossing by the drawer, and insert another, without prejudicing his rights upon the instrument, it is a matter of considerable doubt whether he could do so now. Before the act, the crossing, whether in blank or special, did not restrain the negotiability of the cheque either to the banker named, or a banker only, but was a mere memorandum, for the protection of the owner, that the holder was to present it for payment through a banker. Payment otherwise than to a banker would have been strong evidence of negligence; but where the drawer inserted the name of his own banker, and that was fraudulently struck out, and the name of another banker inserted, the payment of the double-crossed cheque was held no additional evidence of negligence. (*Bellamy* v. *Majoribanks*, 7 Exch. 389, 402; *Stewart* v. *Lee*, 1 Moo. & M. 161; *Carlon* v. *Ireland*, 5 El. & Bl. 765).

In the last-mentioned case, which led to the passing of the act, it was held that the crossing did not restrain the negotiability of the cheque, but threw upon the individual who (not being a banker) cashed it the duty of shewing that he received it bonâ fide for value. Can it be said with certainty now that the crossing is only a memorandum for the protection of the owner? Or, admitting the cheque to be only payable through a banker, is it a matter free from doubt that a crossing by the drawer, supposing the owner to strike it out, and insert another crossing, imposes no more restraint upon the negotiability than such crossing by the drawer would have done before the statute? Would payment of a double-crossed cheque now be deemed no additional evidence of negligence? If the crossing is now a material part of the instrument, as it appears to be under the statute, who can foretell the consequences of an alteration in it? The statute notices no distinction between a crossing made by the drawer and made by the owner. It contains but one other clause besides that set out above, which interprets the meaning of "banker;" and whilst the important questions suggested above, and others, are left in doubt, and to be settled by litigation when they may happen to arise, there is no saving clause—nothing to protect those legal incidents of crossed cheques which were understood before the alteration of the law. In *Bellamy* v. *Majoribanks* there was a great conflict of evidence as to whether it was the usage of bankers to pay a cheque specially crossed by the drawer only to the banker named. The jury found that the usage was to pay only to such banker; but ultimately the Court directed a new trial, which never took place. It cannot be said that this point is free from doubt; and when the Legislature interfered, the question should have been cleared up.

We think, that in the introduction of the new law, its effect upon the existing law and upon transactions necessarily affected by the change has not been sufficiently borne in mind. It is not to be supposed that remote contingencies are to be provided against; but a new law is very defective when the natural consequences of it are overlooked. This statute has already failed in one of the objects mentioned in its preamble—the prevention of crime; and we doubt whether it will greatly add "to the ease of commerce." In general, the prolixity of our statutes is their bane; but this runs into the opposite extreme. It is brief, but obscure; and the magnitude of the interests affected by it, the exigencies of commerce, and the convenience of individuals, call for more careful legislation.

Exchequer Chamber.—Errors will be taken from the Queen's Bench on the 30th April and 1st May; from the Common Pleas on the 9th and 11th May; and from the Exchequer on the 12th and 13th May.

castle-upon-Tyne, timber merchants, May 6 at half-past 11, Newcastle-upon-Tyne, last ex. of *Wm. Doeg.*—*James Cowan*, Newcastle-upon-Tyne, cheesemonger, May 6 at 11, Newcastle-upon-Tyne, last ex.—*Gilbert Hodgson* and *Wm. Aicheson*, Sunderland, timber merchants, May 5 at half-past 11, Newcastle-upon-Tyne, last ex.—*Edward White*, Cushion-court, Old Broad-street, stockbroker, May 5 at 11, London, aud. ac. —*Simon Cohen* and *Joseph Lubliner*, Hatton-garden, manufacturing goldsmiths, May 1 at 11, London, aud. ac.—*Charles Cannon*, Love-lane, Eastcheap, meat salesman, May 1 at half-past 1, London, aud. ac.—*Thomas Butt*, Littlehampton, Sussex, ironmonger, May 1 at 12, London, aud. ac.—*G. Cavens*, Carlisle, jeweller, May 5 at 11, Newcastle-upon-Tyne, aud. ac.—*James Smith*, Egham Hythe, Egham, Surrey, cattle dealer, May 12 at half-past 11, London, div.—*R. Woollatt*, Fenchurch-street, tea dealer, May 14 at 12, London, div.—*John Bishop*, Crosby-hall-chambers, Bishopsgate, and Grosvenor-lodge, Maiden-lane, Highgate, wine merchant, May 12 at 1, London, div.—*Frank Rennison*, Milk-street, Cheapside, merchant, May 12 at half-past 1, London, div.—*Frederick Dinsdale*, King's Arms-yard, Coleman-street, dealer in iron, May 12 at half-past 11, London, div.—*Wm. P. Hammond*, Scott's-yard, Bush-lane, London, shipowner, May 12 at 1, London, div.—*Joseph Cooper* the elder, *Joseph Cooper* the younger, and *Joe Cooper*, Holehouse Mills, Chisworth, near Glossop, Derbyshire, cotton spinners, May 7 at 2, Manchester, aud. ac.; May 14 at 1, div. sep. est. of *Joseph Cooper* the elder.—*Reuben Cooper*, Oldham, wholesale grocer, May 4 at 12, Manchester, aud. ac.; May 18 at 12, div.—*Thomas King*, Spalding, Lincolnshire, licensed victualler, May 19 at half-past 10, Nottingham, aud. ac. and div.—*Benjamin Linfoot*, Mansfield, Nottinghamshire, builder, May 19 at half-past 10, Nottingham, aud. ac. and div.—*Henry S. Parker*, Birmingham, licensed victualler, May 16 at half-past 11, Birmingham, fin. div.—*Robert R. Charles* and *Wm. Fordyce*, Haughton, Northumberland, paper manufacturers, May 15 at 11, Newcastle-upon-Tyne, div. joint est., and div. sep. est. of *Wm. Fordyce.*—*John Rose*, St. Helens, Lancashire, miller, May 12 at 11, Liverpool, div.—*Wm. Sherratt*, Crewe, Cheshire, innkeeper, May 12 at 11, Liverpool, div.—*John Jones*, Chester, draper, May 12 at 11, Liverpool, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

James Smith, Egham Hythe, Egham, Surrey, cattle dealer, May 12 at half-past 11, London.—*Charles Cooper*, High-street, Wandsworth, Surrey, grocer, May 14 at 11, London. —*Horatio Bunting*, Colchester, Essex, seedsman, May 13 at 2, London.—*Frederick Morse*, Dunster-court, Mincing-lane, rice merchant, May 13 at 1, London.—*Edwin Mosley*, Hyde-street, Bloomsbury, gold beater, May 13 at 12, London.—*Richard Hervey* the younger, Crutched-friars, merchant, May 13 at 11, London.—*Henry Campin*, Watling-street, warehouseman, May 12 at 1, London.—*Rowland Muckleston*, Hackney-road-crescent, wholesale shoe manufacturer, May 12 at 2, London.—*Daniel Smith*, Harriet-street, Sloane-street, Chelsea, apothecary, May 14 at 12, London.—*David Lloyd*, Cannon-street, London, and Lewisham, Kent, merchant, May 14 at 11, London.—*George Cavens*, Carlisle, jeweller, May 14 at 12, Newcastle-upon-Tyne.—*Major Kirkup*, Jarrow, Durham, brick manufacturer, May 14 at 11, Newcastle-upon-Tyne.—*G. Spilsbury*, Wolverhampton, Staffordshire, builder, May 14 at 10, Birmingham.—*Joseph Suckling* the younger, Birmingham, provision dealer, May 14 at 10, Birmingham.

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Catherine Humphery, Baker-street, Portman-square, bookseller.—*Ephraim Fairhead*, Cressing, near Braintree, Essex, cattle dealer.—*Peter Stainsby*, Bishopsgate-street, London; Pontisford, near Shrewsbury, Shropshire; and Parson's-green, Fulham, Middlesex, smelter.—*Geo. Campion Postans*, Newmarket, Cambridgeshire, grocer.—*Wm. Foster*, Birmingham, timber merchant.—*Richard Davis* the elder, West Bromwich, Staffordshire, coal master.—*John Venables* and *Henry Grasett*, Burslem, Staffordshire, earthenware manufacturers.

SCOTCH SEQUESTRATIONS.

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GAZETTES.—Friday, *April* 24.

Bankrupts.

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EDMUND STEPHENSON, Daventry, Northamptonshire, ironfounder, May 6 at 2, and June 9 at 12, London: Off. Ass. Graham; Sols. J. & J. H. Linklater & Co., 17, Sise-lane.—Pet. f. April 23.

WILLIAM PETRIE WAUGH, Branksea Island, Studland, Dorsetshire, and Little Abingdon-street, Westminster, (trading under the style or description of the Branksea Clay and Pottery Company), and lately residing in Upper Grosvenor-street, Middlesex, brick and tile maker, May 7 and June 13 at 11, London: Off. Ass. Bell; Sols. J. & J. H. Linklater & Co., 17, Sise-lane.—Pet. f. April 15.

WILLIAM NASH, St. John-street, Smithfield-bars, licensed victualler, May 6 at 11, and June 8 at 1, London: Off. Ass. Nicholson; Sol. Heath, 11, Artillery-place West, Finsbury. —Pet. f. April 21.

HENRY CHARLES CALDWELL, late of Singapore, East Indies, and now of Kensington-park-gardens, Notting-hill, Middlesex, scrivener, May 7 and June 5 at half-past 11, London: Off. Ass. Cannan; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. April 22.

THOMAS BENNETT, Oldbury, Worcestershire, and West Bromwich, Staffordshire, iron manufacturer, May 7 and 28 at 11, Birmingham: Off. Ass. Whitmore; Sol. Smith, Birmingham.—Pet. d. April 22.

THOMAS HENRY GRIFFITH, Lowesmoor, Worcestershire, coal dealer, May 7 and 28 at 11, Birmingham: Off. Ass. Whitmore; Sol. Smith, Birmingham.—Pet. d. April 23.

JOSEPH HARDY, Nottingham, miller, May 5 and 26 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. April 21.

ELIZABETH CLARKE, Newport, Monmouthshire, potter, May 5 and June 2 at 11, Bristol: Off. Ass Acraman; Sols. Champ, Newport; Bevan & Girling, Bristol.—Pet. f. April 21.

CHARLES HURRY RICHES, Cardiff, Glamorganshire, carrier, May 5 and June 2 at 11, Bristol: Off. Ass. Miller; Sols. Walton, Cardiff; Bevan & Girling, Bristol.—Pet. f. April 22.

PATRICK DENNISON, Bradford, Yorkshire, grocer, May 11 at half-past 12, and June 9 at 11, Leeds: Off. Ass. Hope; Sols. Livett, Manchester; Payne & Co., Leeds.—Pet. d. April 18.

ROBERT CARTER OUSTON, Kingston-upon-Hull, corn merchant, May 6 and June 10 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. England & Saxelbye, Hull.—Pet. d. April 15.

SAMUEL HUNTER, Gateshead, and NICHOLAS HUNTER, Hartlepool, Durham, anchor manufacturers, (carrying on business under the style or firm of Hunter & Co.), May 5 and June 10 at 11, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Watson, Newcastle-upon-Tyne; Harwood, 10, Clement's-lane, Lombard-street.—Pet. f. April 11.

Meetings.

Octavius King and *Alfred King*, Dullingham, near Newmarket, Cambridgeshire, corn merchants, May 12 at 11, London, pr. d. sep. ests.—*Maurice Meyer* and *Sigismund Seckel*, Newgate-st., general merchants, May 6 at half-past 1, London, last ex.—*John Gillam*, Devereux-court, Strand, and *Wm. H. Taylor*, City-road and Poultry, licensed victuallers, May 12 at 12, London, last ex.—*Thomas White* the younger, Portsmouth and Gosport, Southampton, shipbuilder, May 12 at half-past 12, London, last ex.—*James Armstrong*, Berwick-upon-Tweed, linendraper, May 7 at half-past 11, Newcastle-upon-Tyne, last ex.—*Benjamin Edwards*, Davies-street, Oxford-street, rope dealer, May 12 at 11, London, aud. ac.—*George James Wagstaff*, Whitechapel-road, watchmaker, May 9 at 11, London, aud. ac.—*Henry Campin*, Watling-street, warehouseman, May 12 at 1, London, aud. ac.; May 19 at 1, div.—*Thomas Horner*, Hart-street, Bloomsbury, house decorator, May 7 at 1, London, aud. ac.—*F. Rennison*, Milk-st., Cheapside, and Matson-terrace, Kingsland-road, warehouseman, May 6 at 12, London, aud. ac.—*Jas. Truscott*, Austin-friars, commission agent, May 13 at 12, London, aud. ac.—*W. Woods*, Union-street, Southwark, hook-and-eye manufacturer, May 6 at 12, London, aud. ac.—*Wm. Humphries*, Brierley Hill, Kingswinford, Staffordshire, innkeeper, May 7 at half-past 11, Birmingham, aud. ac.—*John Rose*, St. Helens, Lancashire, miller, May 11 at 11, Liverpool, aud. ac.—*William Sherratt*, Crewe, Cheshire, innkeeper, May 11 at 11, Liverpool, aud. ac.—*John Jones*, Chester, draper, May 11 at 11, Liverpool, aud. ac.—*Jacob Abraham Jacques* and *Louis Selig*, traders, May 7 at 11, Liverpool, aud. ac. sep. est. of *Jacob Abraham Jacques*; May 8 at 11, aud. ac. joint est.—*Thomas George Alanson*, Liverpool, wine merchant, May 14 at 11, Liverpool, aud. ac.; May 21 at 11, div.—*John Gladstone* the younger, Liverpool, ironfounder, May 21 at 11, Liverpool, aud. ac.; May 22 at 11, div.—*John Unwin*, Seacombe, Cheshire, baker, May 14 at 11, Liverpool, aud. ac.; May 21 at 11, div.—*Edward Alanson*, Liverpool, wine merchant, May 14 at 11, Liverpool, aud. ac.; May 21 at 11, div.—*William Fletcher Roberts*, Moreton-in-the-Marsh, Gloucestershire, apothecary, May 14 at 11, Bristol, aud. ac.—*Joseph West*, Beckington, Somersetshire, miller, May 14 at 11, Bristol, aud. ac.; May 21 at 11, div.—*John Danger*, Yatton and Bristol, Somersetshire, leather factor, May 7 at 11, Bristol, aud. ac.—*William Skinner* the younger, Bristol, tailor, May 7 at 11, Bristol, aud. ac.; May 21 at 11, div.—*Robert Barwick*, Sunderland, shipowner, May 8 at 11, Newcastle-upon-Tyne, aud. ac.—*Joseph Watson*, Guisborough, Yorkshire, maltster, May 26 at 11, Leeds, aud. ac.—*Wm. Elsam*, Heyford and Bugbrook, Northamptonshire, ironstone master, May 18 at 11, London, div.—*David Morriss*, Wisbeach, Cambridgeshire, grocer, May 18 at 1, London, div.—*Joseph Cleary*, Church-road, De Beauvoir-square, builder, May 15 at 11, London, div.—*Charles Ollivier*, New Bond-street, musicseller, May 15 at 2, London, div.—*Edward D. Cooper*, Bawdsey, near Woodbridge, Suffolk, grocer, May 15 at 2, London, div.—*Jas. Moore*, Manchester, livery-stable keeper, May 15 at 12, Manchester, div.—*Samuel Sketchley*, Horncastle, Lincolnshire, scrivener, May 27 at 12, Kingston-upon-Hull, div.—*Catherine Hughes*, Holywell, Flintshire, draper, May 19 at 12, Liverpool, div.

Certificates.

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THE JURIST.

LONDON, MAY 2, 1857.

AN able correspondent has addressed to us a letter (which appears in our number of the 4th April) on the subject of the inrolment of conveyances to burial boards. His remarks deserve attentive consideration, although we cannot say that they have changed our opinion on the matter.

With respect to the first point, viz. whether a conveyance to a burial board is a conveyance to a charitable use, we do not think, on a renewed examination of the cases, that there is any conflict between Lord Eldon and Sir J. Leach on this head. The remarks of Sir J. Leach, which we cited in our leading article of the 21st March, refer to two classes of funds, collected compulsorily, under the authority of Parliament, for a public purpose, viz. funds derived solely from the persons who are to be benefited by the works to be done, and funds derived wholly or in part from other persons. The funds in *The Attorney-General* v. *Brown* (1 Swanst. 265) were of the latter description, and Sir J. Leach, with respect to such funds, expresses himself much to the same effect as Lord Eldon, but lays down the law more broadly, and then pointedly draws a distinction with regard to the former class, which he does not consider as constituting a gift at all. The observations of Lord Eldon in *The Attorney-General* v. *The Mayor of Dublin* (1 Bligh, N. S., 334) are obscure from their conciseness, it not being at first sight apparent to what point in *The Attorney-General* v. *Heelis* he is referring when he treats it as inconsistent with *The Attorney-General* v. *Brown*. Sir J. Wigram, in *Nightingale* v. *Goulburn*, (5 Hare, 488), says, "I do not collect that the law laid down in *The Attorney-General* v. *Heelis* was disapproved by Lord Eldon, but that the law as laid down in that case, if correct, tended to shew that in *The Attorney-General* v. *Brown* Lord Eldon had felt unnecessary difficulties in deciding the case." It must be observed that Lord Eldon says, (1 Bligh, N. S., 334), "The case of *The Attorney-General* v. *Brown*, whether well or ill decided, was not decided solely upon the ground that it was a charitable use. Upon reflection, I thought it so, but the judgment proceeded upon other grounds." Now, if Sir J. Leach's affirmative statement in *The Attorney-General* v. *Heelis*, as to what are charitable uses, be correct, the use in *The Attorney-General* v. *Brown* was clearly charitable, and there was no occasion to resort to any other grounds. Lord Langdale (6 Beav. 230) appears also to have thought that the only doubt expressed as to *The Attorney-General* v. *Heelis* was, whether Sir J. Leach had not laid down a proposition which would include within the description of "charitable funds" funds which did not properly come within it. We think, however, (though we cannot but feel some diffidence in propounding an interpretation of Lord Eldon's observations differing from that adopted by such high authority), that if *The Attorney-General* v. *The Mayor of Dublin* be carefully examined, it will be found that the point of conflict between *The Attorney-General* v. *Heelis* and *The Attorney-General* v. *Brown*, to which Lord Eldon adverted, was one wholly distinct from the question of charity or no charity. The question in all three suits was simply whether a Court of equity had jurisdiction to compel an account, and whether the use was charitable or not was perfectly immaterial, supposing a right to an account in equity existed independently of charity. In *The Attorney-General* v. *Brown*, Lord Eldon held that the use was charitable; but, as he himself tells us in the remarks above quoted, he held also that *there was jurisdiction to compel an account whether the use was charitable or not*. Whether this can be inferred from the report of *The Attorney-*

General v. *Brown* is, of course, immaterial to the present question, which is, merely, what Lord Eldon meant by his remarks in *The Attorney-General* v. *The Mayor of Dublin*. Then came *The Attorney-General* v. *Heelis*, a case very similar to *The Attorney-General* v. *Brown*. Sir J. Leach held that there was *no jurisdiction to compel an account unless the use was charitable*. He laid down a broad proposition as to what uses were charitable—a proposition in no way conflicting with *The Attorney-General* v. *Brown*—and another as to what uses were not charitable, which also, we apprehend, would not exclude such a trust as that in *The Attorney-General* v. *Brown*. Now, if, bearing this in mind, we read through the observations of Lord Eldon made at the close of the argument in *The Attorney-General* v. *The Mayor of Dublin*, (1 Bligh, N. S., 334), we think it will be clearly seen that the substance of what Lord Eldon says is this—"In *The Attorney-General* v. *Brown* I held that the use was charitable, but that there was a right to an account whether it was charitable or not; and the latter was the principle on which I founded my judgment. In *The Attorney-General* v. *Heelis*, Sir J. Leach held that there was no right to an account unless the use was charitable, and the research into the old books confirms my view rather than his."

We cannot by any means agree in thinking the judgment of Sir J. Leach, independently of authority, so unsatisfactory as our correspondent considers it. The distinction which that learned judge took was not between the application to build a church and to erect gas-lamps—a distinction which could hardly have occurred to his mind when he was dwelling on the importance to be attached to the source whence the fund came. He took what appears to us to be a very common-sense view—that the Legislature, in levying rates upon the inhabitants of a town for the purpose of improving that town, is not making a gift to them. When, on the other hand, the rates are not levied exclusively upon the body of persons for whose benefit they are to be applied, it may reasonably be said that the Legislature is making a gift to them.

We do not think that Sir J. Leach meant to say merely that the funds adverted to in his dictum were not subject to the jurisdiction of a Court of equity. Such an interpretation does not seem to us consistent with the scope of his judgment, taken as a whole. He treats the question, whether the funds are charitable or not, as deciding the point, whether a Court of equity has jurisdiction. He then says, that the source of the funds is to be looked to in deciding whether the use is charitable; and ends by saying, that because funds of a certain description are not "derived from bounty or charity," they are not "charitable funds to be administered by this Court." Looking to the train of reasoning, and to the fact that there is not in his judgment any reference whatever to charitable funds not subject to be administered by the Court, we cannot entertain any doubt that his concluding words were intended to express, "are not charitable funds, and therefore not liable to be administered by this Court;" he having said shortly before, that in the case before him there was no jurisdiction to compel an account unless the funds were charitable.

The object of the act, as our correspondent observes, was no doubt to check the conveyance of land to charitable purposes, whether such conveyance be made with a charitable intent or not; but we do not see that it follows that the spirit of the act is infringed by holding that the money must be contributed with a charitable intent. This seems to us to assume the point in question, viz. whether the source from which the funds come is to be regarded in deciding whether the use is a charitable one.

With respect to the operation of the 15 & 16 Vict. c. 85, upon the earlier statute, (9 Geo. 2, c. 36), we certainly cannot put the case so high as to say that the latter act necessarily repeals the former as to inrolment in this particular case. It certainly would be possible to make the conveyances under the later act comply with the requisition of the earlier as to inrolment. We still think, however, that on a fair construction the later act takes away, in the cases within its scope, the restrictions imposed by the earlier. We think that if the Legislature had, before the passing of the 9 Geo. 2, c. 36, directed a body to make certain purchases for a certain specific charitable purpose, and enacted that every conveyance made to them for that purpose in a certain specified form should be valid, the 9 Geo. 2, c. 36, would have been held not to apply to conveyances made under the former, for that the principle generalia specialibus non derogant would have governed the case; (see *Sir Foulke Grevil's case*, 3 Jenk. 41); and we do not see that any distinction unfavourable to the board is to be drawn from the fact that the general restrictive statute was the earlier of the two. The principle seems safely applicable in a case where the result of holding it not to be so would be to convict the Legislature of the inconsistency of directing a particular act to be done, and at the same time imposing upon the doing it various troublesome restrictions, devised for the very purpose of preventing such acts from being done.

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Few branches of our law have undergone greater modification by change of opinion alone, and without any statutory interference, than that which relates to the maintenance of suits and actions. So jealous formerly were our judges of the intervention of third parties in litigation, that they adopted and promulgated views upon the subject which at the present day appear to be absurd and extreme. The influence exercised by power and wealth over witnesses, jurors, and it may be judges, was doubtless stronger in former times than in our own, and often so strong and so corrupt as to work manifest injustice; but still we can hardly understand the state of society in which it was considered necessary, by judicial decision, to bring within the offence of maintenance such apparently innocent acts as to persuade one to be counsel for another gratis—to go with another to inquire for a person learned in the law—for a juror to solicit a judge to give judgment according to the verdict—for a man of power and interest to stand by another while his cause was being tried, though he said nothing—or for a man of power, not learned in the law, telling another, who asked his advice, that he had a good title*. The extreme opinions, however, which prevailed upon this subject are doubtless long since exploded, but the effect of the old doctrine of maintenance is still felt in the rule upheld by our common-law Courts, that a chose in action is not assignable so as to give the assignee a right of action in his own name. Upon this point we cannot do better than cite the clear and forcible observations of Buller, J., in *Master* v. *Miller*, (4 T. R. 320, 340). "It is laid down," said that learned judge, "in our old books, that for avoiding maintenance a chose in action cannot be assigned or granted over to another. The good sense of that rule seems to me to be very questionable, and in early as well as modern times it has been so explained away, that it remains at most only an objection to the form of action in any case. In 2 Roll. Ab. 45, 46, it is admitted that an obligation or other deed may be granted so that the writing passes; but it is said that the grantee cannot sue for it in his own name. If a third person be permitted to acquire the interest in a thing, whether he is to bring the action in his own name or in the name of the grantor does not seem to me to affect the question of maintenance. It is curious, and not altogether useless, to see how the doctrine of maintenance has from time to time been received at Westminster Hall. At one time not only he who laid out money to assist another in his cause, but he that by his friendship or interest saved him an expense which he would otherwise have been put to, was held guilty of maintenance. (Bro. Ab., tit. 'Maintenance,' 7, 14, 17, &c.) Nay, if he officiously gave evidence it was maintenance; so that he must have had a subpœna or suppress the truth. That such doctrine, repugnant to every honest feeling of the human heart, should be soon laid aside must be expected. Accordingly a variety of exceptions was soon made; and, amongst others, it was held, that if a person has any interest in the thing in difference, though on contingency only, he may lawfully maintain an action on it. (2 Roll. Ab. 115). But, in the midst of all these doctrines on maintenance, there was one case in which the Courts of law allowed of an assignment of a chose in action, and that was in the case of the Crown; for the Courts did not feel themselves bold enough to tie up the property of the Crown, or to prevent that from being transferred. (3 Leon. 198; 2 Cro. 183). Courts of equity from the earliest times thought the doctrine too absurd for them to adopt, and therefore they always acted in direct contradiction to it; and we shall soon see that Courts of law also altered their language on the subject very much. In 12 Mod. 554, the Court speaks of an assignment of an apprentice or an assignment of a bond as things which are good between the parties, and to which they must give their sanction, and act upon. So an assignment of a chose in action has always been held a good consideration for a promise. It was so in 1 Roll. Ab. 29; Sid. 212; and Jones, 222; and, lastly, by all the judges of England in *Mouldale* v. *Birchall*, (2 Bl. 820), though the debt assigned was uncertain. After these cases we may venture to say that the maxim was a bad one, and that it proceeded on a foundation which fails. But still it must be admitted, that though the Courts of law have gone the length of taking notice of assignments of choses in action, and of acting upon them, yet in many cases they have adhered to the formal objection, that the action shall be brought in the name of the assignor, and not of the assignee. I see no use or convenience in preserving that shadow when the substance is gone; and that it is merely a shadow is apparent from the later cases, in which the Courts have taken care that it shall never work injustice."

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* See Bac. Ab., tit. "Maintenance," for these and other instances.

It is time to alter this rule of law, and to recognise in all our courts, for all purposes, the rights pertaining to an assignee of choses in action. We doubt also whether the whole doctrine of maintenance may not be usefully swept from our laws; for, after all, what offence is there in aiding a man to assert his rightful claims—and on questions of maintenance they are assumed to be rightful—or what legal damage is sustained by him against whom such rights are asserted? The malicious instigation of suits and actions without reasonable or probable cause is a very different matter; but for this an action will lie, quite independently of the doctrine of maintenance. It is analogous to the action for a malicious prosecution, as was said by Patteson, J., in the case of *Flight* v. *Leman*, (4 Q. B. 883). (See also *Pechell* v. *Watson*, 8 M. & W. 691).

With regard to champerty, which is but a species of maintenance, it is difficult to see why parties should not be allowed to settle for themselves terms of payment for services rendered. If the "campi partitio" appears to them a better mode of remuneration than a gross sum of money, why should they not adopt it? The common law and the rules of equity would be sufficient, we presume, without resorting to maintenance or champerty, to meet cases of fraud and undue advantage, and also to render illegal such an agreement as came to light in *Sprye* v. *Porter*, (3 Jur., N. S., part 1, p. 330)—namely, to *supply sufficient evidence* to recover property, in consideration of having a share of it.

THE PRINCIPLES OF THE REGISTRATION QUESTION.

(*From a Correspondent*).

The details of the joint Report of the Registration of Title Commission, and of Mr. Wilson's separate report, may be left until the subject shall be fairly before Parliament. A question of above twenty years' standing, and of more than twenty successive attempts at legislation, will certainly not be disposed of, and probably not even be handled, by the Legislature before the close of the impending short session; yet there are broad principles involved which should at once be brought forward, and be steadfastly kept in sight, now that the results of the labours of the commission have become public. This is the more requisite, as the joint report, disregarding these principles, confounds objects that are entirely distinct, and which up to the present time have been, and in Mr. Wilson's report are now, kept in their proper places.

The objects in view in dealing with the law of the sale and transfer of land are three—simplification of title, manifestation of title, and indefeasibility of title. We propose briefly to shew that they are independent of each other. The joint report makes them all dependent on registration of title. Thus, in paragraph 25 we read—"The main desiderata to which attention is most anxiously directed are not so much security of title, (for that in fact is, to a great extent, practically obtained), but the simplification of title, facility of transfer, simplicity of form, and the consequent diminution of delay and expense. To obtain these advantages a registration of title is the remedy proposed." And the joint report, after discussing and disposing of three such proposals, finally proposes its own plan of registration of title. Again, in paragraph 40—"The problem which has to be solved is this—by what means, consistently with the preservation of existing rights, can we now obtain such a system of registration as will enable owners to deal with land in as simple and easy a manner, as far as the title is concerned and the difference in the nature of the subject-matter may allow, as they now can deal with moveable chattels or stock?" And at paragraph 42—"The objects in view are . . . . to form this register [of title] in such a manner that the retrospective inquiry into the former dealings and transactions, which on a transfer is now necessary, may be avoided; to make this register instrumental in simplifying the title to land, and the forms of conveyances," &c.

First, then, as to simplification of title. There is no conceivable simplification that might not be effected by an act going directly to the point. For instance, the law might provide that a purchaser should not be affected with any notice of equitable interests, (as by sect. 20 of the Companies Clauses Act). Further: it might provide, as regards particular estates and remainders, that the freeholder in possession might sell, (as under the Lands Clauses Act), without being obliged to pay the purchase money into court; or, if that were thought unsafe, then that in all cases there should be a power of sale over land; and that if land were settled or disposed of without such a power, then that some proper tribunal should appoint a person to have such a power; the necessity for the power would be analogous to the feudal necessity that there should always be a tenant of the freehold; or a law might be made doing away with entails, or with legal remainders altogether—changing all estates but that of the legal fee into equitable estates, not binding on a purchaser. The actual proposal of the joint report, namely, to merge all distinctions of estates into the grand distinction of "registered and unregistered interests," means, in itself, no more than some such change. A division into 'public and private interests," or "market and non-market interests," or any other correlatives, shewing that a purchaser need deal only with the former, without regarding the latter, would answer the purpose, without any reference to registration. Protection to the "private" or "non-market" interests might be afforded equally well by the entry of a caveat on the title deed, to be looked at by a purchaser, as it could on a register.

Next as regards the second object in view—manifestation of title. This is the true object of registration. Whatever be the law as to title, the use of a register is merely to enable a purchaser to apply the law with certainty and facility; in other words, to prevent the uncertainty and difficulty which arise from loss, destruction, suppression, or falsification, and from dispersion, or distant or inconvenient custody, of title deeds. A register of title, as distinguished from a register of assurances, means properly a register which points to the ownership, as deducible from the deeds, instead of incumbering itself with the deeds themselves. This is Mr. Wilson's view. It is not the office of registration of title so to revolutionise title, that, regardless of every other consideration, it may be conveniently put on a register. There is no magic or summum bonum in registration. The character of title must be determined by considerations of its own—the exigencies of the social, political, and natural character of land in each particular country, under each particular form of government, in each particular state of the commerce of life and of wealth. Here, again, the very simplicity of the plan of transfer proposed by the joint report (the stock plan) renders registration unnecessary. Will any one contend, that, were it not for the purpose of making out the dividend warrants, stock might not far more easily, and just as safely, be transferred by the indorsement of a Government debenture as a cargo is by a bill of lading? Registration of land has been attempted for the last five-and-twenty years, on account of the complexity of title. Cut the knot with the commissioners' sword, and by the very act registration of any sort becomes superfluous labour.

We now come to the last object—indefeasibility of title—that is, relief to the purchaser from any obligation to look into or regard the back title. Here, though some official person—call him registrar-general, or what you will—must act, his office will not be that of a registrar, but of an inspector, of transfers. His certificate that the seller is registered owner (as proposed by the joint report) will be nothing more than a certificate that the transfers have been duly made up to that time. But that duty does not imply any necessity that those transfers should be on a register. He could equally well, as a matter of principle, though not with equal facility, give a certificate of title upon a sale made under the existing law. Under an improved state of the law of real property—improved for the purpose of simplifying title—an officer might give such a certificate with a proportionally greater degree of facility. Just as now, an officer, by inspecting successive documents, might declare that a banker, lending on a dock warrant, had an indefeasible title to so many hogsheads of sugar.

The more desirable it is to assimilate the transfer of land, as nearly as circumstances will permit, to the transfer of a cargo—to supply those desiderata which are set forth in the joint report—to solve that problem which is proposed (or rather as it ought to have been proposed) by the commissioners—to attain those objects which they have in view—the more desirable, we say, all this is, the more necessary is it to have at the outset clear ideas in the matter. Let each member of the subject rest in its proper place and in its natural dimensions, and not be thus forced down and strained on the commissioners' Procrustes-bed of registration.

A.

Correspondence.

RESTRAINT ON ANTICIPATION IN APPOINTMENTS TO CHILDREN.

TO THE EDITOR OF "THE JURIST."

SIR,—In connexion with the subject of appointments to children in execution of powers, so ably treated in THE JURIST of last and the preceding week, the question of the validity of an appointment made to a daughter for her separate use, *without power of anticipation*, may, perhaps, be deemed worthy of some notice. A somewhat recent decision of Sir W. P. Wood, V. C., is calculated to make the law on this point somewhat difficult to be determined, when taken together with the cases which precede it on the same point. In *Carver* v. *Bowles*, (2 Russ. & M. 304), under an exclusive power in a marriage settlement over a fund in favour of children, the question of the validity of an appointment to daughters for their separate use, *without power of anticipation*, was raised; and Sir J. Leach held, "that it was competent to the donee of the power to limit the interests which he appointed to his daughters to their separate use, and *to restrain them from anticipation or alienation*." In *Thornton* v. *Bright*, (2 My. & C. 230), under a similar power over real estate, an appointment was made to trustees for the separate use of a daughter, without power of anticipation; and Lord Cottenham held, on appeal, reversing the decision of the Court below, that the appointment was valid. In *Dickenson* v. *Short*, (8 Hare, 178), under a power to charge real estate for portions for daughters, the donee of the power appointed to trustees, upon trust for his daughter, a married woman, for her life, for her separate use, without power of anticipation. The case was argued on the validity of the limitation in restraint of anticipation, when the Vice-Chancellor said, in giving judgment, that the argument for the husband (against the separate use and restraint on anticipation clause) must go the length of saying, that the donee of the power, having power to charge the estate with a certain sum, could not appoint less than the whole sum which he was empowered to give; for if he might appoint a smaller sum, why might he not, on the same principle, appoint less than an absolute interest? If the donee of the power might appoint a smaller sum than that which the utmost exercise of the power would enable him to give, as in this case he clearly could, why might he not also make the appointment for the life of the object of the power, or render the interest of the appointee determinable upon certain acts, or introduce provisions restraining the appointee in this case from parting with the property during the coverture? He was of opinion that there was nothing invalid in the restrictive terms of the appointment, and that the daughter must be declared to be entitled to the sum in question for her separate use, *without power of anticipation*. In the face of these authorities, and directly opposed to them, comes the subsequent decision of Sir W. P. Wood, V. C., in *Fry* v. *Capper*, (1 Kay, 163), alluded to above. In this case, under a power of appointment of a trust fund among children in the usual form, the share of a married daughter was limited to trustees, upon trust for her separate use for life, without power of anticipation. It was argued that the restraint upon anticipation would have infringed the rule against perpetuities if inserted in the settlement, and that it therefore rendered the appointment void; and Sir W. P. Wood, V. C., in a judgment by no means remarkable for its clearness, is considered to have decided that the clause in restraint of anticipation was invalid, but that the appointment was otherwise good, and that the invalid condition might be rejected. With respect to this case it may be observed, that neither *Carver* v. *Bowles* nor *Dickenson* v. *Short* seems to have been cited in the argument; and with respect to *Thornton* v. *Bright*, the Vice-Chancellor observes, "that though the limitations in that case were precisely similar to that he was deciding, the particular point of the validity of a clause restraining anticipation did not seem to have been argued." This could not have been said if the case of *Dickenson* v. *Short* had been cited; and it is doubtful if the Vice-Chancellor would have come to the same conclusion if that case, together with the previous case of *Carver* v. *Bowles*, in both of which the point was expressly raised, had been brought to his Honor's notice. It is submitted, that until further decisions on the point have been made, the law with respect to the validity of a clause in restraint of anticipation in an appointment to a daughter is in anything but a settled and satisfactory state.

I remain, Sir, your obedient servant,

Chancery-lane, April 28, 1857. H. P. W.

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VOLUNTARY CONVEYANCES.

TO THE EDITOR OF "THE JURIST."

SIR,—Having had occasion to make the following resumé of the principles upon which voluntary conveyances have been enforced in equity, I send it to you in the hope that it may usefully contribute to a discussion which has been commenced, but not I think exhausted, in your columns.

(A.)—Property can be assigned to or on behalf of volunteers by assignments valid at law, and the Court of equity will allow such transactions their legal effect. (*Antrobus* v. *Smith*, 12 Ves. 46).

When the trustee to whom the legal assignment has been made declines to act, equity will enforce payment of the debt for the benefit of the voluntary cestui que trust, (*Bridge* v. *Bridge*, 16 Beav. 315), upon the grounds that the grantor has done every act which it was necessary for him to do to render the trust complete; (*Antrobus* v. *Smith*, 16 Ves. 39; *Ex parte Pye*, 18 Ves. 149); that the property vests in the trustee at once, subject to his choosing afterwards to disclaim; (*Siggers* v. *Evans*, 5 El. & Bl. 382); and that a cestui que trust (whether a volunteer or not is immaterial) shall not be prejudiced by the conduct of his trustee. (*Fortescue* v. *Barnett*, 3 My. & K. 36; *Fletcher* v. *Fletcher*, 4 Hare, 67).

(B.)—Property can be assigned to a volunteer, or a right to damages for its non-assignment given to him by instruments not amounting to a legal assignment. Ex gra.—

1. A deed purporting to assign a thing not assignable at law, but containing a covenant, either express, as in *Ward* v. *Audland*, (16 M. & W. 862), or implied, as in *Aulten* v. *Atkins*, (18 C. B. 249), for better assigning and transferring the choses in action purporting to be assigned by the voluntary deed containing the covenant.

Equity will not enforce the specific performance of the covenant at the suit of a volunteer; (*Colman* v. *Sarrel*, 1 Ves. jun. 50; *Ellison* v. *Ellison*, 6 Ves. 656); but the covenant creates a debt, and equity, following the law, will enforce that debt in the administration of the assets of the covenantor; (*Fletcher* v. *Fletcher*, 4 Hare, 67; *Cox* v. *Bernard*, 8 Hare, 310); and if the covenantee is a trustee, and refuses to act, equity will interfere, (4 Hare, 77), upon the same principle as that upon which it acts in favour of a voluntary cestui que trust, to whose trustee, as in case (A.), the legal ownership has been transferred.

In the same manner a warranty in a deed assigning property in a legal mode, where the assignment was defeated by a subsequent sale, creates a debt enforceable in equity against the assets of the grantor. (*Williamson* v. *Codrington*, 1 Ves. sen.)

2. A deed purporting to assign a thing not assignable at law, but containing a power of entry.

A grant of goods not in possession of the grantor at the time is void unless ratified by some further act after he has acquired the property therein, but a power of entry over future property may be given in a deed which grants present property. (*Tapfield* v. *Hillman*, 6 Man. & G. 245). Till the power is executed by the grantee taking possession of the property, future at the date of the deed, he has no legal or equitable title, but upon his taking possession he would be in the same position as if the debtor had delivered the property to him. (*Congreve* v. *Evetts*, 10 Exch. 298).

It is apprehended that if such a power were given to a trustee, as in *Hope* v. *Hayley*, (5 El. & Bl. 830), and he refused to enter, the cestui que trust would have a remedy in equity analogous to those given in the cases (A.) and (B.) 1; but the case, it is believed, has not arisen.

3. A deed purporting to assign, but not legally assigning, a thing not assignable at law, but containing a power of attorney.

This was the case in *Blakely* v. *Brady*, (2 Dru. & W. 311). By a voluntary deed a promissory note was assigned to a trustee, with a power of attorney to the trustee to sue on behalf of the assignor. The assignor died; his administrator refused to allow his name to be used by the trustee. The Court decreed that the trusts should be carried into execution, on the ground that nothing remained for the assignor to do in order to make the gift to the assignee absolute. The transaction was "complete" within the meaning of the principle laid down in *Fortescue* v. *Barnett*, (3 My. & K. 36). The decision in *Blakely* v. *Brady*, though contrary to a dictum in *Ward* v. *Audland*, (8 Beav. 211), has been cited with approbation in *Kekewich* v. *Manning*, (1 De G., Mac., & G. 176), and followed in *Parnell* v. *Hingston*, (2 Jur., N. S., part 1, p. 854).

4. A deed purporting to assign a thing non-assignable at law, if it remains in the power of the assignee to render the transaction complete.

Thus, in *Fortescue* v. *Barnett*, (3 My. & K. 36), a policy of insurance was assigned by deed to the trustees, who omitted to give notice of the assignment to the insurance office; the insurer kept the policy in his possession; it was held that the fault of the trustees in not giving notice to the office should not prejudice the right of the cestui que trust where title would otherwise have been complete against the assignor. In *Edwards* v. *Jones* (1 My. & C. 226) it was held that an assignor who assigned a bond by writing not under seal, and delivered the bond at the same time to the assignee, had not done all that was required of him to make the transaction complete.

5. A declaration of trust by the absolute owner.

When the beneficial owner is also legal owner, the only instrument required is one declaring that he holds the property in trust for the volunteer. Upon this equity will act. (*Ex parte Pye*, 18 Ves. 149; *Bridge* v. *Bridge*, 16 Beav. 315). So, if a person directed money at his bankers to be carried to an account in the joint names of himself as trustee, and of the cestuis que trust, and the banker give a promissory note for the amount to him as trustee, he holds that promissory note as trustee, and equity will enforce the trust. (*Wheatley* v. *Parr*, 1 Kee. 551).

If the owner of a fund executes a deed, by which he declares that certain persons should be possessed of stock then standing in his name for him during his life, and after his decease should hold it in trust for other persons, and after his decease the stock is transferred to the trustees of the deed, the Court will not interfere to dispossess the trustees at the suit of persons interested under the will of the settlor. (*Airey* v. *Hall*, 2 Jur., N. S., part 1, p. 658).

6. A declaration of trust by the beneficial owner who is not legal owner.

The beneficial owner is the proper person to make the declaration of trust; and a declaration of trust by the legal owner is unavailing unless the trusts are recognised and sanctioned by the beneficial owner. (*Tierney* v. *Wood*, 19 Beav. 336).

A legal fee in lands is vested in A. in trust for B.; B. signed a document, not attested, addressed to A., directing that the lands and other property should after his death be held in trust for other persons. This was an effectual declaration of trust within the 7th section of the Statute of Frauds, and enforced at the suit of volunteers. (*Tierney* v. *Wood*, 19 Beav. 336).

It has been decided that a beneficial owner may assign his equitable interest to a new cestui que trust without notice to the trustees, and the donee may compel transfer of the stock to him. (*Donaldson* v. *Donaldson*, Kay, 711). But in *Bridge* v. *Bridge* (16 Beav. 328) it was held that an equitable interest in land could not be assigned "without purporting to make the trustees" of the original instrument trustees of the voluntary assignment. This, however, is said by Lord St. Leonards (V. & P. 591, 13th ed.) to seem open to reconsideration.

A direction by an equitable mortgagee to the mortgagor, that on paying off his debt he should invest a certain portion of it in Consols for the benefit of the children of A., is a valid declaration of trust, and enforceable against a subsequent inconsistent direction by the mortgagee to pay the whole debt to her. (*Paterson* v. *Murphy*, 11 Hare, 88).

7. An equitable assignment of reversionary property. The theory of the Court with regard to equitable assignments is, that they pass no interest in the property: they are mere agreements to assign, which equity enforces against the conscience of the assignor at the suit of an assignee for value. (*Carleton* v. *Leigh*, 3 Mer. 667; *Morse* v. *Faulkner*, 3 Swanst. 429; *Lyde* v. *Mynn*, 1 My. & K. 695). But equity will not assist the volunteer in making the assignor do any act to complete a voluntary transaction, and therefore it has been held that a volunteer in whose favour an equitable assignment, or, in other words, an agreement to assign, has been made, would not assist the volunteer by requiring the assignor to perform his agreement. (*Meek* v. *Kettlewell*, 1 Hare, 464; 1 Ph. 342). But in the case of a reversionary interest an equitable assignment is the only mode of transfer, except by a declaration of trust, between which and an equitable assignment there is, if any, a very thin distinction. The assignor, by the assignment, does all that at the time he can do, and therefore it seems that equity will interfere to perfect the gift, at the time not left imperfect through any fault of the assignee or unwillingness of the assignor. In *Sloane* v. *Cadogan*, (Sugd. V. & P., 11th ed., App.); *Kekewich* v. *Manning*, (1 De G., Mac., & G. 176); and *Vegie* v. *Hughes*, (2 Sm. & G. 18), assignments of equitable reversionary interests have been enforced at the suit of volunteers.

I have supposed that the Court was moved in these cases by the consideration, that unless such assignments were supported in equity, reversionary interests could not be transferred inter vivos, except for value, or in the form of a declaration of trust; and the case put by Sir J. L. Knight Bruce, L. J., in *Kekewich* v. *Manning* (1 De G., Mac., & G. 188) illustrates the inconvenience that would follow from thus denying the competence of the owner of a reversionary interest to transfer it by way of bounty.

But if the doctrine of *Donaldson* v. *Donaldson*, (Kay, 711), supported by the query of Lord St. Leonards against the opposite doctrine in *Bridge* v. *Bridge*, should, as is not unlikely in the present disposition to facilitate the transfer of property, prevail, the power of equitable owners of property in possession to transfer their equitable interest will not be limited to declarations of trust as heretofore, but it will be competent for such persons to assign their equitable interests in possession to a volunteer, without notice to the trustees, and without purporting to make the trustees trustees for the assignee. The assignee would then be considered the beneficial owner in equity, and might compel the trustees to transfer the legal estate to him, subject only to the qualification, that if the trustees had, before notice of the assignment, transferred the legal estate to another person, the assignee would be without remedy. Although this must be considered an inroad on the old doctrine, that an equitable assignment passes no property, it will relieve the subject from much embarrassment, arising from the thin distinction between assignments of equitable interests and declarations of trusts (B. 6) of the same interests.

But however the question raised in *Donaldson* v. *Donaldson* may be hereafter settled, the proposition upon which Sir J. Stuart, V. C., acted in *Parnell* v. *Hingston*, (2 Jur., N. S., part 1, p. 854)—viz. that if the owner of a chose in action makes a voluntary assignment to a trustee in trust for a third party, and gives the trustee a power of attorney, although the legal interest fails in being vested in the trustee, yet the trusts are thereby validly fastened on the property in the hands of the owner himself—seems to have been rather rashly censured by a correspondent, (ante, p. 92), who states it to be unsupported by principle or authority. I think that it will be found fully in accordance with the principles above deduced from the best authorities, and at variance only with a loose dictum in *Ward* v. *Audland*, (8 Beav. 202).

After this survey, it is perhaps unnecessary to add, that the dictum of Lord Cranworth in *Soales* v. *Maude*, (6 De G., Mac., & G. 51)—that "mere declaration of trust by the owner of property in favour of a volunteer is inoperative, and this Court will not interfere in such a case. The case is different where there has been a change of legal ownership, and so a trust has been constituted"—is wholly at variance with the established doctrine of the Court.

Hitherto the only voluntary settlements referred to have been those where the object of the donor is bounty; but there is a different class of voluntary conveyances—namely, those to trustees in trust to pay debts, depending upon a distinct set of principles and authorities, which it is essential, though often difficult, to keep clear of each other. (*Browne* v. *Cavendish*, 1 Jo. & Lat. 636; *Simmonds* v. *Palles*, 2 Jo. & Lat. 489).

(C.)—Property may be assigned by a voluntary deed to trustees, in trust to pay creditors, if the relation of trustee and cestui que trust is validly established; for "if the relation is established, there is consideration for the deed, and it is no longer voluntary." (*Harland* v. *Binks*, 15 Q. B. 713).

This relationship is established—

1. If the trustee is a creditor, no assent or notice to any other creditor is necessary, but the relationship is at once established, subject to the trustee choosing afterwards to disclaim. (*Siggers* v. *Evans*, 5 El. & Bl. 379).

2. If the trustee is not a creditor, but gives notice to a creditor, who verbally expresses himself satisfied with what is done, (*Harland* v. *Binks*, 15 Q. B. 713), upon the principle that the creditor may have refrained, in consequence of such notice, from pursuing his legal remedies, the creditor need not execute the deed. (*Field* v. *Donoughmore*, 1 Dru. & W. 227). Even actual assent may not be necessary if communication has been made to the creditor. (*Siggers* v. *Evans*, 5 El. & Bl. 377). Before notice to the creditor the deed is a mere power in the trustee, and is revocable by the debtor. (*Acton* v. *Woodgate*, 2 My. & K. 492; *Smith* v. *Keating*, 6 C. B. 136, 158).

3. Any creditor who assents to, or acts in accordance with, a deed becomes a cestui que trust; but where a

creditor has taken any step inconsistent with the provisions of the deed, he will be deprived of all advantage therefrom. (*Field* v. *Lord Donoughmore*, 1 Dru. & W. 227; *Watson* v. *Knight*, 19 Beav. 369; *Forbes* v. *Limond*, 4 De G., Mac., & G. 315). But when a day is stipulated for the creditors to execute the deed, and no creditor, except the trustees, executes the deed, yet the creditors are entitled to have the trusts of it carried into execution. (*Broadbent* v. *Thornton*, 4 De G. & S. 65; *Nicholson* v. *Tutin*, 2 Kay & J. 18).

4. If the voluntary deed stipulate that creditors should sign within a certain time, and they do not, the deed is void at law; but if creditors who have not signed it have acted under it, it is good in equity. (*Spottiswoode* v. *Stockdale*, Coop. 102). C. S.

REGULA GENERALIS.

ORDER OF COURT.—*Easter Term*, 1857.

It is ordered, that plaintiffs suing in contract for 20*l.* or less may, if they claim costs, indorse on the writ of summons the following notice:—

> "Take notice, that if judgment be signed for default of appearance, the plaintiff will without summons apply to a judge for his costs of suit, unless before such judgment you shall give notice to him or his attorney that you intend to oppose such application."

And it is further ordered, that if the defendant give such notice, the plaintiff shall proceed by summons and order.

But if the defendant give no such notice, the plaintiff may produce such indorsement to a judge at chambers for an order for costs, ex parte, and if the judge shall sign his name to the indorsement, such signature shall be an order for costs, and the Master may tax them thereon accordingly. In case of any application for costs without such indorsement, the plaintiff shall not be entitled to more costs than if he had made such indorsement, unless a judge shall otherwise order.

Entry of Satisfaction on Judgments.

Upon a satisfaction piece, duly signed and attested in accordance with the 80th Rule of Hilary Term, 1853, being presented to the clerk of the judgments of the Masters in the court in which the judgment has been signed, he shall file the same and enter satisfaction in the judgment book against the entry of the said judgment, and no roll shall be required to be carried in for the purpose of entering satisfaction on a judgment.

Campbell.
A. E. Cockburn.
Fred. Pollock.
W. Erle.
Charles Crompton.
E. V. Williams.
J. Willes.
Samuel Martin.
G. Bramwell.
W. F. Channell.

April 23, 1857.

Court Papers.

NEW CASES.—Easter Term, 1857.

Court of Queen's Bench.

NEW TRIALS.

Midd.—Parker *v.* Shadwell (disposed of Apr. 27)
" Woodcock *v.* Toulmin
Lond.—De la Rue *v.* Dickinson
Lond.—Ridgway *v.* O'Connor
" Phillips *v.* Gibbins
" Chollett *v.* Hoffman
" Kenrick *v.* Horder
" Schuster *v.* M'Kellar
Lond.—Beckett *v.* Willatts
" Birch *v.* Jury
" Hartley *v.* Ponsonby
" Summers *v.* Solomon
North'land—Parker *v.* Winlo
" Stokoe & an. *v.* Singers
" Heald *v.* Pickersgill
York—Sharpe & an. *v.* Waterhouse & an.
" Dixon *v.* Holroyd
" North-eastern Railway Co. *v.* North
" Houldsworth & ors. *v.* Morley
Liv'pool—Charles *v.* National Guardian Assurance Society
Liv'pool—Warden *v.* Stone (disposed of Apr. 28)
" Mavrogordato *v.* Hindson
Essex—Wigfield *v.* Shield
Sussex—Stedman *v.* Smith
Stafford—Baggaley *v.* Davy
Glo'ster—Roux *v.* Cardinal Wiseman
" Packer *v.* Winterbotham
Pembroke—Mathias *v.* Evans

Tried during Term.

Lond.—Symons *v.* Fisher

Rules granted, but not placed in the list.

Milburn *v.* Cotterell
Davis *v.* Morland.

APPEALS.

For Judgment.

Esposito *v.* Bowden
Rowbotham *v.* Wilson

For Argument.

Roberts *v.* Haines
Bayley *v.* Avery
Pemberton *v.* Chapman
Collier *v.* Wright
Ingram *v.* Barnes
Knowles *v.* Trafford
Bowman *v.* Blyth.

Court of Common Pleas.

NEW TRIALS.

Lond.—Simmonds *v.* Tayler
" Simpson *v.* Accidental Death Insurance Co.
Liv'pool—Bellhouse *v.* Mayor of Manchester
Cambridge—Holmes *v.* Onion
Lond.—Rankin *v.* Payne
Liv'pool—Jones *v.* Provincial Insurance Co.
Lond.—Duff *v.* Mackenzie
" Cuhill *v.* Dawson
Lond.—Duff *v.* Warman
" Lindsay *v.* Robertson
" Wood *v.* Layton
York—Delaney *v.* Fox
Lond.—Andrews *v.* Belfield
" Last *v.* Edwards
Kent—Neyler *v.* Passfield
Northamp.—Lovell *v.* Smith
Midd.—Ling *v.* Croker
Chester—Sutton *v.* Sadler.

APPEALS.

For Judgment.	For Argument.
Hickman *v.* Cox	Johnson *v.* Goslett.

Court of Exchequer.

NEW TRIALS.

Midd.—Smith *v.* Voss
" Daniel *v.* Skinner
" Hodges *v.* Paterson
" Nixon *v.* Brownlow
Lond.—Wilson *v.* Hicks
" Blackstone *v.* Wilson
" Coulson *v.* Attwood
" Gibbs *v.* Charleton
" Crouch *v.* Great Western Railway Co.
" Mills *v.* Holton
" Hand *v.* Willson
" Kitchen *v.* Stafford
Cambridge—Pidgeon *v.* Legge
York—Elgey *v.* Milnes
" Smith *v.* Render
" Same *v.* Same
Liv'pool—Preston *v.* Tamplin
" Lees *v.* Knowles
Chester—Bushell *v.* Norman
Kingston—Andrews *v.* Hawley
" Ellis *v.* London & South-western Railway Co.
Nottingham—Every *v.* Smith
Derby—Witham *v.* Wright
Winchester—Tooker *v.* Smith
Exeter—Churchward *v.* Ford
Stafford—Beale *v.* Caddick
Shrewsbury—Vaughan *v.* Downes
Monmouth—Dalton *v.* Batchelor
" Chapman *v.* Monmouthsh. Railway and Canal Co.
" Jones *v.* Same
Glo'ster—Sharples *v.* Rickard
" Williams *v.* Smith
" Hollis *v.* Marshall.

Jones, Bristol, pastrycook.—*Philip Porter*, Liverpool, cotton broker.—*William Hughes*, Liverpool, joiner.

SCOTCH SEQUESTRATION.

James Bruce, Dunfermline, merchant.

TUESDAY, *April* 28.

BANKRUPTS.

ELIZABETH SILBY SMALL, Fonthill-place, Clapham-road, Surrey, plumber, May 7 at 1, and June 9 at 11, London: Off. Ass. Bell; Sols. Fraser & May, 78, Dean-street, Soho.—Pet. f. April 27.

JOSEPH BRUCE, Yarmouth, Isle of Wight, Southampton, grocer, May 9 at 11, and June 11 at 2, London: Off. Ass. Johnson; Sols. Eldridge, Newport, Isle of Wight; Harrison & Co., 14, New Boswell-court, Lincoln's-inn.—Pet. f. April 23.

THOMAS HARRISON, Harrietsham and Maidstone, Kent, coal merchant, May 11 and June 10 at 12, London: Off. Ass. Nicholson; Sol. Bennett, 35, Ludgate-hill.—Pet. f. April 9.

WILLIAM PASKELL GARRARD, Little Tower-street, City, wine merchant, May 13 at half-past 12, and June 15 at 1, London: Off. Ass. Pennell; Sols. Young & Plews, 29, Mark-lane, London.—Pet. f. April 20.

HENRY MARKINFIELD ADDEY, Henrietta-street, Covent-garden, and Gloucester-terrace, Hyde-park, bookseller, May 12 at half-past 2, and June 12 at half-past 11, London: Off. Ass. Edwards; Sols. Cooper & Hodgson, 3, Verulam-buildings, Gray's-inn.—Pet. f. April 22.

ALFRED HINTON, Birmingham, druggist, May 11 and June 8 at half-past 10, Birmingham: Off. Ass. Christie; Sols. Griffiths & Bloxham, Birmingham.—Pet. d. April 15.

GEORGE ALEXANDER HEWITT, Derby, chemist, May 12 and June 9 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Robotham, Derby; James, Birmingham.—Pet. d. April 27.

WILLIAM TASKER and JOHN AUDUS, Selby, Yorkshire, potato merchants, May 8 and June 5 at 11, Leeds: Off. Ass. Young; Sols. Hodgson, Selby; Bond & Barwick, Leeds.—Pet. d. and f. April 17.

GEORGE PARKER, Leeds, grocer, May 11 at half-past 11, and June 8 at 11, Leeds: Off. Ass. Hope; Sols. Bond & Barwick, Leeds; Richardson & Sadler, Old Jewry-chambers.—Pet. d. April 13.

HENRY WALTERS and BENJAMIN WALTERS, Alfreton, Derbyshire, druggists, May 16 and June 13 at 10, Sheffield: Off. Ass. Brewin; Sol. Unwin, Sheffield.—Pet. d. April 21; f. April 22.

ROBERT M'LEAN and JAMES M'LEAN, Hulme, Manchester, builders, May 15 and June 12 at 12, Manchester: Off. Ass. Hernaman; Sol. Rowley, Manchester.—Pet. f. March 16.

MEETINGS.

Wm. R. Carr and *H. F. Scott*, Walls-end, Northumberland, iron manufacturers, May 12 at 11, Newcastle-upon-Tyne, last ex.—*Thomas Laidler*, Jarrow, Durham, coalowner, May 12 at 11, Newcastle-upon-Tyne, last ex.—*David Morriss*, Wisbeach, Cambridgeshire, grocer, May 13 at 11, London, aud. ac.—*Sleater Geoghegan*, Palsgrave-place, Strand, engraver, May 18 at half-past 11, London, aud. ac.—*William Bailey* the younger, Buttesland-street, Hoxton, carver, May 13 at 11, London, aud. ac.; May 20 at half-past 11, div.—*J. Cleary*, Church-road, De Beauvoir-square, Middlesex, builder, May 8 at half-past 12, London, aud. ac.—*P. D. Leno*, Great Winchester-street, London, merchant, May 8 at half-past 11, London, aud. ac.—*Catherine Hughes*, Holywell, Flintshire, grocer, May 18 at 12, Liverpool, aud. ac.—*William Reay*, Birmingham, corn dealer, May 15 at half-past 11, Birmingham, aud. ac.—*F. Every*, Exeter, scrivener, May 15 at 1, Exeter, aud. ac.; May 21 at 1, div.—*John Fry Reeves*, *John F. Reeves*, *Orlando Reeves*, and *Archibald Reeves*, Taunton, Somersetshire, scriveners, May 15 at 1, Exeter, aud. ac. sep. est. of *John Fry Reeves;* May 20 at 1, div. sep. ests. of *John Fry Reeves* and *Orlando Reeves*.—*Robert Redman* and *Edw. Redman*, Mark-lane, wharfingers, May 20 at 11, London, fin. div.—*Lesley Alexander* and *Wm. Bardgett*, Old Broad-street, merchants, May 20 at 12, London, div. sep. est. of *Wm. Bardgett*.—*Benj. Collis*, Bishop's Stortford, Hertfordshire, draper, May 19 at 11, London, div.—*Alfred Gibson*, Great St. Helens, London, shipbroker, May 19 at half-past 11, London, div.—*Thomas Knowles*, Seymour-street, Euston-square, chemist, May 20 at 1, London, div.—*C. A. Markham*, Godmanchester, Huntingdonshire, currier, May 20 at 1, London, div.—*E. Crofts*, West-place, John's-row, St. Luke's, hearth-rug manufacturer, May 19 at 1, London, div.—*Charles Geiger*, Winchester, draper, May 19 at 1, London, div.—*Owen Grey*, Great Tower-street, City, builder, May 19 at 11, London, div.—*Levi Pearson*, Rochdale, Lancashire, wholesale grocer, May 11 at 12, Manchester, aud. ac.; May 20 at 12, div.—*John Whitaker*, Bridge-end, near Newchurch, Rossendale, Lancashire, cotton manufacturer, May 13 at 12, Manchester, aud. ac.; May 20 at 12, div.—*Jacob Abraham Jacques* and *Louis Selig*, traders, May 21 at 11, Liverpool, div. sep. est. of *A. Jacques;* May 22 at 11, div. joint est.—*James Michell*, Crew's-hole, St. George, and Westbury-upon-Trym, Gloucestershire, copper smelter, May 21 at 11, Bristol, fin. div.—*Ann Rees*, Llanelly, Carmarthenshire, grocer, May 21 at 11, Bristol, div.—*Robert Radnor*, Presteign, Radnorshire, maltster, May 21 at 11, Bristol, div.—*George Puckrin*, Tunstall, Staffordshire, grocer, May 20 at half-past 10, Birmingham, fin. div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Robert Henry Bollin, King's Lynn, Norfolk, carriage builder, May 20 at half-past 11, London.—*William Turin Curtis*, Great St. Helens, City, merchant, May 20 at 1, London.—*Thomas Edwards*, Eversholt-street, Oakley-square, St. Pancras, china dealer, May 20 at 2, London.—*James Glover*, Thames Ditton, Surrey, dealer in wine, May 20 at half-past 1, London.—*Robert Colless*, High Holborn, Middlesex, and High-street, Borough, Surrey, licensed victualler, May 19 at 2, London.—*William Henry Grimsdale* and *Thomas Hart Grimsdale*, Uxbridge, common brewers, May 19 at 2, London.—*Benjamin Chandler*, Sherborne, Dorsetshire, attorney, May 21 at 1, Exeter.—*Donald M'Larty*, *John M'Kean*, and *Robert Lamont*, Liverpool, merchants; May 20 at 11, Liverpool.—*William Smith Gooding*, Manchester, tailor, May 20 at 12, Manchester.—*John Bishop*, Shrewsbury, cabinet maker, May 21 at half-past 10, Birmingham.—*James Walker*, Walsall, Staffordshire, bridle cutter, May 21 at half-past 10, Birmingham.—*Rice Harris* and *Rice Williams Harris*, Birmingham, glass manufacturers, May 21 at half-past 10, Birmingham.

To be granted, unless an appeal be duly entered.

Thomas Nash, Leather-lane, and Kirby-street, Hatton-garden, carpenter.—*William Kingston*, Bridge-road, Lambeth, linendraper.—*William Bryant*, Shalford, Essex, shoemaker.—*William Pilley*, Aldermanbury Postern, City, tailor.—*John Arlis*, Plymouth, carrier.—*Samuel Clare*, Ashton-under-Lyne, grocer.—*Henry Taylor* and *Henry Hoyle*, Vale Mill, near Bacup, and Manchester, cotton spinners.—*Samuel Baker*, Birmingham, ironfounder.—*Arthur Mann*, Burslem, Staffordshire, earthenware manufacturer.—*Alfred Taylor*, Wednesbury, Staffordshire, builder.—*John William Langridge*, Birmingham, staymaker.—*James Wootton*, Leicester, builder.—*William Peach*, Derby, coal merchant.—*George Ball*, New Lenton, Nottinghamshire, plumber.—*John Morley*, Nottingham and Sneinton, Nottinghamshire, joiner.—*John Kinton*, Coventry, builder.

PETITION ANNULLED.

Thomas Owen, Liverpool, builder.

SCOTCH SEQUESTRATIONS.

William Craig, Glasgow, wine merchant.—*Robert Marshall*, Old Monkland, Lanarkshire, farmer.—*Peter Balfour*, Dundee, manufacturer.

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed Edward Mote, Gent., of No. 16, Thornhill-square, Islington, to be a London Commissioner to administer oaths in the High Court of Chancery.

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ROBERT HUGH LANKESTER, Bread-street, Cheapside, enamelled-bag manufacturer, May 14 at 2, and June 16 at 12, London: Off. Ass. Lee; Sol. Reed, 1, Guildhall-chambers, Basinghall-street.—Pet. f. April 30.

FREDERICK THOMAS WILLIS, Whitecross-street, City, oil and colour man, May 15 at half-past 11, and June 12 at 1, London: Off. Ass. Whitmore; Sols. A. & W. Bristow, Greenwich.—Pet. f. April 28.

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GEORGE MOORE, Shardlow, Derbyshire, innkeeper, May 12 and June 9 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Huish, Castle Donington, Leicestershire.—Pet. d. April 28.

JOHN WATKINS, Crickhowell, Breconshire, shoemaker, May 12 and June 9 at 11, Bristol: Off. Ass. Miller; Sols. Lewis, Crickhowell; Bigg, Bristol.—Pet. f. April 27.

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GEORGE PACEY, Liverpool and Birmingham, merchant, May 19 and June 8 at 11, Liverpool: Off. Ass. Morgan; Sol. Duke, Liverpool.—Pet. f. April 28.

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WILLIAM M'GILL, Charlotte-town, Prince Edward's Island, North America, and Manchester, ship builder, (carrying on business with John M'Gill, under the firm of John & William M'Gill), May 14 and June 11 at 1, Manchester: Off. Ass. Hernaman; Sols. Sale & Co., Manchester.—Pet. f. April 21.

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PHILIP NAIRN, Warren Mills, near Belford, Northumberland, miller, May 15 at half-past 11, and June 30 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hoyle, Newcastle-upon-Tyne; Crosby, 3, Church-court, Old Jewry.—Pet. f. April 23.

Meetings.

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THE JURIST.

LONDON, MAY 9, 1857.

It has frequently happened that a deed or will, by which real estate has been limited in strict settlement, has contained a clause empowering the trustees named in the instrument, during the minority of *any* person beneficially entitled in possession, to accumulate the whole or a portion of the rents and profits; and a series of decisions has established, that, except where the accumulated fund is to be applied to the discharge of incumbrances upon the settled estate, or, in the case of a will, to the payment of the testator's debts, such a trust for accumulation is altogether void. The stat. 39 & 40 Geo. 3, c. 98, commonly called the Thellusson Act, had no influence in these decisions. They rested on a rule which prevailed antecedently to the passing of that statute, though then surrounded by much doubt, but which, as now settled, may perhaps be thus stated—that no instrument can lawfully create any trust or power, of which it cannot be said with certainty, at the time when the instrument comes into operation, that if lawful, it could not have, or that it could be prevented from having, the effect of suspending the full enjoyment of an estate in possession in real or personal property for a longer period than a life or lives in being at the date of the deed, or the death of the testator and twenty-one years after the decease of the survivor of the lives, or at a time more remote than the termination of that period. The statute merely confined the accumulation of income, both of real and personal estate, within narrower limits than those previously allowed by the rule against perpetuities, but did not operate to remove the total invalidity of the trusts or powers which exceeded the period prescribed by that rule.

In the class of cases mentioned above it is manifest that a course of events might occur, as if several successive tenants in tail were to die under age and leaving issue, in which the trust would outlast the authorised term; and therefore, at the first view, it seems hardly possible that any question could have arisen as to whether the decisions holding the trust to be invalid conformed strictly to the rule on which they professed to be founded. But the soundness of the reasoning by which we are brought to this conclusion has been impugned by more than one writer of eminence, especially by Mr. Lewis, in the Supplement to his work on Perpetuities; and only the other day the very same point was again raised in the case of *Turvin* v. *Newcome*, (3 Kay & J. 16; S. C., 3 Jur., N. S., part 1, p. 203), which appears, however, to have conclusively determined that the law is what we have above laid down. We shall first endeavour to present a concise statement of the reasons which Mr. Lewis has advanced in support of the contrary opinion, and then, by the light which the case we have quoted affords us, to detect the brittle link in the chain of his argument.

Mr. Lewis's attacks have been mainly directed against the judgment in *Browne* v. *Stoughton*, (14 Sim. 369;

S. C., 10 Jur., part 1, p. 747), which, previously to the case of *Turvin* v. *Newcome*, was the leading, or at any rate the clearest, authority upon the subject. There real estate was devised upon trust for A. for life, and after A.'s decease, upon trust for his first and other sons successively in tail male, with remainders over; and the will contained a proviso, that if any person for the time being entitled to the possession of the estates should be under twenty-one, the trustees should receive the rents during the minority, and, after applying a competent part thereof to the maintenance of the minor, should invest and accumulate the surplus in their own names, and should stand possessed of the surplus and the accumulations upon trust to invest the same from time to time in the purchase of real estates, to be forthwith settled to the same uses and upon the same trusts as were thereby declared of the devised estates, or as near thereto as circumstances would admit; and the trusts for accumulation were declared void for remoteness. Now, Mr. Lewis does not, of course, deny that the clause of accumulation and investment of rents during minorities in *Browne* v. *Stoughton* would have been invalid in any settlement or will which did not limit estates tail to the objects of it; but he maintains, that as the will in that case did contain limitations in tail to the issue of the tenant for life, that circumstance furnishes a material distinction, so as to render valid a provision which without the estates tail would have been void. He reminds us of the established principle, that an executory limitation engrafted upon or in defeasance of an estate tail, is not within the mischief against which the rule as to perpetuities was designed to guard, and is consequently not invalidated by that rule, because of the power inherent in tenants in tail to bar any such ulterior limitation; and he tells us (and so far he is correct) that the circumstance of the estates tail being limited to unborn children, in which case the power of destroying the posterior or defeating limitations will remain in suspense until the estates tail vest by the birth of tenants in tail, and the exercise of it will remain still further in suspense until some tenant in tail becomes legally competent to execute assurances of land by attaining twenty-one, does not at all affect the general proposition, but the gift is sustained to precisely the same extent as a trust expectant on estates tail limited to persons in esse, and ascertained. He maintains, moreover, that there is no difference in this respect between limitations expectant upon, and powers or provisions collateral to, estates tail; and that where such powers or provisions would be destructible by the tenant in tail, if he were of age, immediately upon the vesting of the estate, his personal incapacity, when an infant, to destroy them will not be adverted to in resolving the question of their validity. Next he proceeds to contend that the particular clause of accumulation in *Browne* v. *Stoughton* was in substance an executory limitation, operating in partial defeasance of the interests of persons entitled under the preceding limitations; and that a disentailing assurance executed by any tenant in tail entitled under the will would have destroyed that clause.

Then, uniting these two arguments, "it is impossible," he says, "to contend for any distinction between the validity of such a clause and the validity of other powers and provisions in a settlement creating estates tail;" and here he instances the ordinary name and arms and other clauses. "Every one of those powers and provisions, although indefinite and unrestricted, is valid, so far as it is co-extensive with estates tail created under the settlement. The objects and purposes of these provisions are different; but no distinction in principle arises upon the object or purpose of the particular clause; for all of them are either illegal as being perpetuities, or legal as being destructible by the tenants in tail." Mr. Lewis then attempts to distinguish *Browne* v. *Stoughton* from two other important cases which had been previously decided with reference to this question, viz. *Lord Southampton* v. *The Marquis of Hertford*, (2 V. & B. 54), where the trust was secured by a legal term, and *Marshall* v. *Holloway*, (2 Swanst. 432), where it was annexed to the legal fee vested in trustees under the devise; but in both of which cases, as he tells us, the estate securing the trust, and also the trust of accumulation itself, preceded all the other limitations of the settlement, so that it was not within the direct power of tenants in tail, by suffering a recovery, to destroy the trust. Here we may remark in passing, that if, as Mr. Lewis allows, the trust of accumulation in *Marshall* v. *Holloway* was incapable of being barred by the tenants in tail, then for the same reason it was equally out of their power to affect it in *Browne* v. *Stoughton;* for there, too, it was attached to the legal estate devised to the trustees, which was limited in priority to all the other estates created by the will. Mr. Lewis, however, goes on further to argue, that the ground of the decision in *Lord Southampton* v. *The Marquis of Hertford* was, that the destination of the accumulated fund, which was there given to the first owner of the estate who should attain twenty-one, and to no other, was too remote, because the vesting of any interest in the fund was thereby suspended for an indefinite period; while in *Browne* v. *Stoughton*, on the contrary, the trust gave vested interests in the fund to those who took vested interests in the estate from the income of which it arose. The conclusions of the learned writer are summed up in the following terms:—"Just as a remote limitation or estate which is postponed to estates tail is on that account exempt from the rule against perpetuities, so a trust or direction for accumulation of rents limited to arise upon uncertain events, and of uncertain duration, is, when expectant upon, or limited in partial defeasance of, previous estates tail, legal and effectual, provided only the limitations of the fund to be produced by the accumulations (or, in other words, the destination of the fund) be not themselves open to objection, as involving a suspense in the vesting of the interests under those limitations for a period too remote. With regard to the rule against perpetuities, there is no distinction between accumulation of income and limitation of estates; and in those cases where a limitation of remote estates in the land would be legal, a direction for accumulating the rents of that land for a period indefinite is conceived to be equally so."

Now, if we look at the case of *Turvin* v. *Newcome*, we shall find that it cannot in substance be distinguished from *Browne* v. *Stoughton;* and that if Mr. Lewis's reasoning is good in the one case, it must equally prevail in the other. In that case lands were devised to trustees in fee, upon trust for one for life, and after his decease, for his first and other sons successively in tail; and the will contained a direction, that during the minority of any person taking any interest thereunder, the rents and profits of the land so vested in the minor should be laid out and invested by the trustees of the will by way of accumulation, and be held by them upon the same trusts as therein declared of the lands devised, or as near thereto as might be, or such of the same trusts as should still be subsisting. Sir W. P. Wood, V. C., held this trust for accumulation to be void. His Honor said—"It seems to me that this case has been determined by *Browne* v. *Stoughton*. Perhaps, however, it is somewhat less strong in one respect. In *Browne* v. *Stoughton* the legal estate was limited in strict settlement. Here the legal estate is vested in trustees." We think his Honor was in error when he stated that in the case of *Browne* v. *Stoughton* the legal estate was limited in strict settlement; because, according to all the reports, the legal estate in that case also was vested in trustees. But, however that may be, these few sentences contain a doctrine which is most important. They seem to shew, that, in the opinion of Sir W. P. Wood, V. C., it can make no difference upon the question of remoteness, in these sort of provisions for accumulation, whether they are annexed to the legal fee vested in trustees, or whether they are to be executed by persons having no estate in the lands, and therefore must be considered as simply collateral authorities, though coupled with and in the nature of trusts. This view entirely annihilates the whole proposition for which Mr. Lewis contends, viz. that the existence of estates tail in a settlement, which do not themselves infringe the rule against perpetuities, would always render valid a trust for accumulation, which but for the limitations in tail would be too remote, but is nevertheless merely co-extensive with those estates, and renders it unnecessary to consider whether such a trust, secured upon the legal fee devised to trustees, could in any case be destroyed by tenant in tail. For there can be no question that he would be capable of barring a mere collateral power, though in the nature of a trust, given to a stranger to the estate, whether called a trustee or not, for the accumulation of the surplus rents during the minority of any tenant in tail in possession, and for the benefit of that tenant in tail; and yet the inference to be drawn from the observations of the Vice-Chancellor is, that the trust would not be a whit the more valid on that account. However, his Honor proceeds to explain himself more fully. "It was argued," he says, "that all that is directed by this testator is that which the Court would direct the trustees to do during the minority of the parties who are entitled respectively to receive the rents and profits. They are to take what is called the surplus after the necessary allowances and payments, whatever they may be, and they are directed to invest it; and so far I accede to the argument, that, the property being rents, this would give absolute interests to those cestuis que trust who are interested as tenants in tail. It was then argued, that therefore the object and destination of the property, when accumulated, would fall within the limits assigned by law; and in that I do not follow the argument entirely. It is not so, because there is no doubt that here, although the accumulations during his time would belong to each successive tenant in tail, and would not go over from one tenant in tail to the next and the like, still the trust is declared to arise during every successive tenancy in tail, and in this respect it is the same as in *Marshall* v. *Holloway* and *Lord Southampton* v. *The Marquis of Hertford*. It is true that the destination of the money is not carried over from one tenant in tail to the next, as it was in those cases, until some tenant in tail attained majority; but there is a positive trust for accumulation fixed upon this property during the whole period while the successive cestuis que trust are under age; and it has been settled that this exceeds the limit which the law will permit for the duration of such a trust. The Vice-Chancellor, in *Browne* v. *Stoughton*, observed, that it did not, in his judgment, depend upon what the destination of the fund was, but upon the legality of the constitution of the trust; and the argument, that this is no more than what the Court would order, has been often used unsuccessfully." (And see upon this point the observations of the Lord Chancellor in *Tench* v. *Cheese*, 1 Jur., N. S., part 1, p. 690) "It is quite true, that if no such provision as this had been made, the probable course of the Court would have been to direct the trustees to do that which they are directed to do by this will; but that would have been by the operation of the Court, acting upon the limitations which it finds in the will, for the benefit of the infants, whose estates would be properly limited; whereas here the testator himself affects to create the trust; and, following the case of *Browne* v. *Stoughton*, I must hold the trust so created to be void." The result of this judgment, then, establishes that no such provision for accumulation as above described—which, although the right to bar it exists in every successive tenant in tail, may nevertheless, by the successive minorities of those tenants, and their consequent incapacity to exercise that right, be by possibility protracted beyond the period of a life or lives in being and twenty-one years afterwards—can lawfully be created; and that, if the trust may last or arise beyond that time, the circumstance, that the destination of the fund when raised does not infringe the rule, must be altogether disregarded. The fallacy of the adverse doctrine lies in the assumption, that in a settlement creating estates tail there is no distinction between a trust for accumulation and other powers and provisoes, which, but for the right inherent in the estate of tenant in tail to defeat them by a disentailing assurance, would offend on the score of remoteness; and that all must alike fail as too distant, or be supported as capable of being so barred. Applied to most of the ordinary powers and provisoes in a settlement, by the exercise of which the tenant in tail, or his representative if he dies under age, is not deprived of any portion of the rents and profits of the estate to which he is entitled in possession, the remarks of Mr. Lewis would be just and sound. Such powers, though they may be unlimited as to time, yet, whenever the right to bar them resides in the owner of a preceding estate tail, follow the analogy of a shifting use, and are not invalidated, because the tenant in tail may be incapacitated from barring the entail, and so from preventing the exercise of the power until long after the legal limit. Lord St. Leonards, in maintaining the validity not only of the creation of unlimited powers of sale and exchange, where the estate is regularly limited in tail, but also of their exercise, if not destroyed, at any period, however remote, uses language almost identical with that which Mr. Lewis employs when speaking of trusts for accumulation; and Lord St. Leonards' language has lately been quoted and approved by the Master of the Rolls in the recent case of *Wolley* v. *Jenkins*, (see 3 Jur., N. S., part 1, p. 323). But trusts for accumulation stand altogether apart. The exception which has been admitted with respect to other powers and provisoes has not in any case, so far as we are aware, been allowed to include them; and *Turvin* v. *Newcome* seems now to have decided, beyond all doubt, that the validity of a trust for accumulation contained in a deed or will creating a strict settlement, and which, in case of the death of successive tenants in tail under age and leaving issue, might possibly violate the rule against perpetuities, is not aided by the circumstance that it would be competent to any such tenant in tail, if of full age, to defeat the trust, or by the fact that this power, which is a legal right, is, in the case of a shifting use, considered, for this purpose, as in full force at the time when in reality it cannot be exercised. This case, however, does not decide, that whenever, at the time when the instrument of settlement comes into operation, a state of circumstances is possible in which a trust therein contained to raise a sum of money cannot be prevented from arising after the expiration of the absolute term limited by the perpetuity rule, the trust will be void in its creation. On the contrary, such a trust may be well created, even though the destination of the fund, when raised, is too remote; as in *Tregonwell* v. *Sydenham*, (3 Dow, 194), where a trust, which was secured by a term of sixty years limited to trustees subsequently to the estates tail, was, that the trustees should retain the rents, and apply them in the purchase of lands, to be conveyed as thereby directed; and after the execution of the trust, or expiration of the term, the estate was limited over. The trusts, so far as related to the application of the fund, being void for remoteness, it was held that a resulting trust arose for the heir-at-law. Here there was, therefore, no person beneficially entitled to an estate in the lands until the money was raised or the term expired; and of course there was no question as to the validity of the term to which the trust was attached. The true distinction, then, appears to be, that a trust of this last description need not be capable of operating to deprive the owner of an estate in possession in the lands (whether it be an equitable estate alone, or whether the legal and beneficial interests are united) of the full enjoyment of that estate at any time beyond the period of a life or lives in being and twenty-one years afterwards. In any case where it might by possibility so operate, it could not lawfully be created.

EQUITABLE ASSIGNMENT—UNAUTHORISED ACTS OF AGENT.

(*From a Correspondent*).

A JUDGMENT was delivered by the Lords Justices on the 25th April of considerable speculative importance to lawyers, but of still more vital and practical interest to the commercial world; speculatively important it is, as extending the doctrine of equitable assignment, and practically important, as seeming at least to decide that a principal cannot repudiate the unauthorised act of his agent. Wilfrid and Edwin Latham carried on business at Liverpool under the firm of Latham Brothers; they had branch establishments at other places, and among them at Buenos Ayres, where business was conducted under the name of W. & E. Latham; but it was proved that the establishments were in every respect the same; that they had a common balance-sheet; that the accounts of the house at Buenos Ayres were annually transmitted to Liverpool; and that such house was managed under a power of attorney given to Austin Latham, a clerk of the brothers, which was publicly lodged with a notary at Buenos Ayres; and that these facts were generally known there. In the beginning of May, 1855, five bills of exchange, at three months, drawn by W. & E. Latham on Latham Brothers, for sums amounting in all to 1200*l.*, were offered for sale at Buenos Ayres, by a broker, to the house of Renner, Delsar, & Imbert, the petitioners. Some distrust was shewn by the petitioners on seeing that the names of the drawers and drawees were the same; and thereupon the broker stated that the bills were good bills, and that he had got a promise that remittances should be made to them, but the nature of the remittances was not agreed on, nor was it promised that the remittance should be specified in any way. Under this assurance the bills were purchased by Renner & Co.; and on the 30th June five similar bills, at three months, amounting to 1000*l.*, were under similar circumstances offered for sale to, and purchased by, the petitioners. The first five bills were remitted to England, and duly accepted in June. On the 25th July, Latham Brothers stopped payment, and were adjudged bankrupts on the 7th August, but news of the stoppage did not arrive at Buenos Ayres until the 20th September. The second parcel of five bills arrived after the bankruptcy, and were refused acceptance. On the 1st August, when the first five bills were about falling due, a remittance of bills was made by W. & E. Latham to Latham Brothers, to the amount of 1471*l.* 15*s.*, accompanied by a letter containing the following passage:—"We beg to hand you inclosed firsts of exchange as follows," &c., "to our order, and indorsed to you, remitted specifically to meet the maturity of our drafts upon you, number," &c., (describing the first parcel of five bills). On the 1st September, after the bankruptcy, but before notice of the act of bankruptcy had arrived at Buenos Ayres, W. & E. Latham made another remittance, with a letter, from which the following is an extract:—"We beg to hand you inclosed first of exchange for 1000*l.*" (describing the bill) "indorsed to us, and by us to yourselves. This remittance we make to cover our drafts upon you for a like amount per mail of July, numbers" &c., (describing the second parcel of five bills). No notice was given to the petitioners of either of these remittances; both of them arrived after the bankruptcy, and were received by the assignees, and the petitioners claimed a specific lien on the bills remitted with the letters. On a petition of appeal from the decision of Mr. Commissioner Stevenson, the Lords Justices, in a reserved judgment, decided, that as to the first remittance, the petitioners were entitled to the lien which they claimed; and as to the second, they said they would require evidence of the law of Buenos Ayres before they would decide against the petitioners, and recommended a compromise.

It is the consequence and the principle of this decision which we desire to canvas. And, first, we are quite prepared to admit that had W. & E. Latham and Latham Brothers been distinct houses, and both bankrupt or insolvent, a long line of cases from *Ex parte Waring*[*] (19 Ves. 345) to *Powles* v. *Hargreaves*[†] (3 De G., Mac., & G. 430) would apply, and the lien, at least as to the first remittance, would have been well established. Again: if it had been agreed that a specific remittance should be made to cover a specific liability, there could have been no question as to the lien attaching on that specific remittance, if made before bankruptcy; (*Ex parte Gledstanes*[‡], 3 M., D., & De G. 109); and a similar effect might have been produced if notice had been sent to Renner & Co. by W. & E. Latham, stating that they (Lathams) were making such a remittance to Renner's credit and account, and in a manner declaring a trust for Renner & Co., (although even this is doubtful, considering the case of *Ex parte Heywood*[||], 2 Rose, 355). There would have been also little question, that if, while still solvent, the Liverpool house had assented to hold the bills, charged with the liability to Renner & Co., and had given notice to Renner & Co. that they did so, a good charge for the benefit of Renner & Co. would have been created by the transaction. Again: had the letters, instead of being addressed to Latham Brothers, been addressed to the acceptors of the bills remitted, announcing that the writers were indorsees of the bills, and that they desired the acceptors to pay Renner & Co. instead of themselves, this would have been equivalent to a qualified indorsement of the bills, and would have created a good equitable assignment of part of the debt due by the acceptor on the bills. But in the present case some one or other of those circumstances which have always hitherto been considered necessary for a good equitable assignment is absent, even in the case of the first remittance, and nearly all in the case of the second remittance. There is no notice to the creditor that a specific fund is charged with his debt, to which, of course, he must assent, to make the assignment good. There is no order by W. & E. Latham on their immediate debtor given to their creditor, which distinction was set up in the judgment in *Rodick* v. *Gandell*[*], (1 De G., Mac., & G. 763), as taking that case out of the rule in *Burn* v. *Carvalho*[†], (4 My. & C. 690). There are no equities between the houses of W. & E. Latham, and Latham Brothers, for they are the same, which distinguishes the cases on the rule in *Ex parte Waring*. There is no assent by the principals to the charge affected to be imposed on their property by their agents. There is, as between the agents and the petitioners, a general promise that remittances shall be made to meet their drafts, which is, in fact, nothing more than a promise to take up their bills at maturity, as they would have been bound to do in any case, and is a mere declaration that the bills were bonâ fide, and not mere fictitious paper; and there is, as between them and their principals, a mere mandate, which has hitherto been considered revocable by the mandator, or repudiable by the mandatory, and which it is admitted, even in the present case, would have been so but for the previous contract to remit. It is not, indeed, shewn how a contract between A. and B. to remit bills to C. for B.'s credit can prevent C. (who is no party to the contract) repudiating the remittance altogether; and yet this is necessary to support the judgment. For primâ facie the assignees of a bankrupt are trustees for the general creditors, and not (except under special circumstances, and for the benefit of the general creditors) in any case trustees for any one individual creditor. If, then, goods come to their hands which may be claimed in two different rights with equal justice, they are bound to prefer the claim which is most in favour of the general creditors. Now, suppose for a moment that there had been no bankruptcy, what course could be adopted by one repudiating a remittance like those mentioned? He must write back to Buenos Ayres, and send back the bills to the remittors. But in the present case the assignees are assignees for the remittors; therefore the only course open to them, on repudiating the charge, is to retain the bills for the general creditors; and this is what they have done. The contract to remit is indeed thereby broken; that, however, is a matter lying in contract, and damages for the breach, when liquidated, are properly proveable as a debt under the bankruptcy; but until the assent of the mandatory, in the absence of a *specific* contract binding the *specific* property, we submit there is no good assignment of that property, and such assent the assignees are by their office precluded from giving. They are bound to repudiate the charge, if repudiable, and to send back the bills to the mandators—that is, in the present case they are bound to hold the bills, being *remitted* to their elder title, to use an analogy drawn from the old law of real property.

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[*] "Securities held by a banker against his acceptances, available to the billholders, not directly, but through the equity of the acceptor, or the assignees under a commission of bankruptcy against him, to have them applied in discharge of his acceptances." (P. 348). Lord Eldon says, "I see nothing in this transaction which, supposing a bankruptcy had not occurred, would entitle those who are creditors by the acceptances of the bankers, having these deposits, to maintain an equity upon them; the effect of which would be, that from the moment of that deposit the bankers became trustees for those creditors, and could not come to any new arrangement with those whose debts are to be so discharged." And again: "If these billholders are to have payment in preference to the other creditors, it must be by the effect of an equity between those two houses, rather than by any demand directly in their own right upon any fund in the hands of Brickwood & Co., (the bankers)."

[†] This case extends to insolvent estates the principle laid down in bankruptcy by *Ex parte Waring*.

[‡] B., S., & Co., of Calcutta, having consigned goods to G. B. in England, on which they had a lien for the price, write him word that they intend to draw in favour of G., K., & Co. for the balance of such shipments, and that they inclose bills of lading and policies of insurance for the goods in question; and they also draw a bill for the amount on G. B. in favour of G., K., & Co., which they direct G. B. to "place to account of shipments per Gardner." Before the goods reach England, G. B. becomes bankrupt, and the goods come to the possession of his assignees:—Held, that the above expressions in the bill and the letter amounted to a specific appropriation of the goods for the payment of the bill, and that the assignees were bound to account to G., K., & Co. for the proceeds.

[||] A. consigns a cargo to B., with a direction to pay to C. out of the proceeds a sum of money, and writes C. to that effect: C. has no lien on the proceeds.

[*] A railway company was indebted to A., their engineer, who was greatly indebted to his banker. The latter having pressed for payment or security, A., by letter to the solicitors of the company, authorised them to receive the money due to him from the railway company, and requested them to pay it to the banker. The solicitors, by letter, promised the banker to pay him such money on receiving it:—Held, that this did not amount to an equitable assignment of the debt.

[†] A., having goods in the hands of B. as his agent at a foreign port, and being under liabilities to C., by letter to C. promised that he would direct, and by a subsequent letter to B. did direct, B. to deliver over the goods to D. as the agent of C. at that port. Before the delivery of the goods a commission of bankruptcy issued against A., under an act of bankruptcy committed while his letter was on its way to B., and the goods were delivered by B. to D. in ignorance of the bankruptcy:—Held, that C. had a good title in equity to the goods.

Let us now look to the other side. It is proved by numberless cases, both at common law and in equity, that a trust imposed as to specific property for the benefit of creditors, who but for such trust would have had nothing more than a general personal right against the debtor, cannot be enforced by any one except the immediate parties to the trust instrument, and is revocable by the party creating the trust, unless the trustees have executed a binding declaration. It is sufficient to mention the old cases of *Williams* v. *Everett*[*], (14 East, 582); *Gibson* v. *Minett*[†], (2 Bing. 7); and *Buchanan* v. *Findley*[‡], (9 B. & Cr. 738), at common law; and *Garrard* v. *Lord Lauderdale*[§], (3 Sim. 1); *Walwyn* v. *Coutts*[||], (3 Mer. 707); and *Scott* v. *Porcher*[¶], (Id. 652), in equity. It is also clearly laid down in many cases, (among them *Buchanan* v. *Findley*), and it was not denied or doubted in the present case, that if the authority to the mandatory was revocable, it was revoked by the bankruptcy of the mandator. Thus, looking from the side of the remittee of the bills, we shew, that if the remittance could have been repudiated, it was, and must have been taken to be, repudiated by the assignees, owing to the bankruptcy of the remittees. Looking from the side of the remittors, we shew that if the mandate was revocable, it was revoked by the bankruptcy of the mandator. But the Lords Justices have decided that the lien still exists, which implies that the mandate was not revocable, and the remittance not repudiable; and the mandate was held to be made irrevocable by the prior general promise to provide assets to meet the bills; yet it was admitted that the general promise in itself only gave a general right of action. How, then, could it charge specific assets, which without it could not be charged? The mandate would charge specific assets, no doubt, as between the mandator and the mandatory. If the mandator were entitled to charge them, considering the relation between them, if the property were belonging to the mandator, he might desire the mandatory to hold it for a particular purpose, which the mandatory would be obliged, as against him, to fulfil, if he consented to hold the property, and not otherwise, so long as the order was not countermanded, but which he could not be compelled to fulfil as against any one else. But here the property belongs not to the mandator, but to the mandatory; and the judgment, therefore, not only rules that a person is precluded, by his prior general promise to remit assets, from revoking an order to you to apply your own property in a particular way, but it is also decided that you are compellable to hold your own property on a trust imposed upon it by the general promise of another person, made without any express authority from you. It seems, further, that the decision also incidentally overrules all the cases which declare, that in order to constitute a good equitable assignment, a *specific* fund must be specifically charged, by contract with the person for whose benefit the charge is made; foremost among which cases stands *Watson* v. *The Duke of Wellington**, (1 Russ. & M. 602), and the cases which establish the rule, that for assigning a debt, it is not sufficient to give a power of attorney to some person to collect and pay the assignee, but that the order should be given to the debtor himself to pay the assignee—a rule established by the case of *Rodick* v. *Gandell*, before mentioned, and following out the principle of *Garrard* v. *Lord Lauderdale*, and that class of cases.

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[*] K., residing abroad, having remitted bills on England to the defendants, his bankers in London, with directions in the letters inclosing such bills to pay the amount, in certain specified proportions, to the plaintiff and other creditors of K., who would produce their letters of advice from him on the subject, and desiring the amount paid to each person to be put on the back of their respective bills, and that every bill paid off should be cancelled; and the plaintiff having, before the bills became due, given notice to the defendants that he had received a letter from K. ordering payment of his debt out of that remittance, and having offered them an indemnity if they would hand over one of the bills to him, but the defendants having refused to indorse the bill away, or to act upon the letter, admitting, however, that they had received the directions to apply the money, and the defendants having, in fact, afterwards received the money on the bills when due—Held, that they did not, by the mere act of receiving the bills, and afterwards the produce of them with such directions, and without any assent on their part to the purport of the letter, and, still more, with their express dissent, bind themselves to the plaintiff so to apply the money in discharge of the debt due to him from K.; and consequently &c.; but that the property in the bills, and their produce, still continues in the remittee.

[†] The plaintiff directed the defendants, his bankers, "I request you to hold me 400*l.* from my private account, to the disposal of J. Mintern & Co." The order was presented to the bankers, who had also an account with Mintern & Co.; but Mintern & Co. not requiring the money, it was not paid to them, or passed to their account. The plaintiff revoked the order before it was paid or carried to Mintern's account; notwithstanding which revocation the defendants afterwards paid the money to Mintern & Co. A jury having found for the plaintiff, after a direction to consider whether the order was absolute or conditional, the Court refused a new trial.

[‡] A. & Co., merchants in Liverpool, remitted a bill to B. & Co. in London, with directions to get it discounted, and apply the proceeds in a particular way. B. & Co. did not get the bill discounted, but received the money when it became due. Before that time A. & Co. had stopped payment, and desired to have the bill returned. A commission of bankruptcy having been issued against them before the money was received on the bill by B. & Co.—Held, that the latter were liable to be sued for the amount by the assignees of A. & Co. for money had and received to their use; and that B. & Co. could not set off a debt due to them from A. & Co.

[§] A conveyance by a debtor to trustees for payment of scheduled creditors, who do not execute the deed, or conform to its terms, cannot be enforced by the creditors.

[||] Trust deed for payment of creditors, no creditor being a party, nor made by agreement, and without any consideration on the part of any creditor. The debtor afterwards executes other deeds, varying the trusts of the first. Motion for injunction by creditor to restrain the trustees from executing the trusts of the subsequent deeds till they had raised money to answer the first refused.

[¶] H. & Co. consigned pearls to B., with directions to sell, and pay the proceeds to P. (to whom H. & Co. were at the time indebted) on account. B. acknowledges the receipt of the consignment, and undertakes to perform the directions; but no notice is given by either party to P. H. & Co. subsequently write to B., requesting the pearls to be sent to America, and there disposed of; and afterwards, being insolvent, make an assignment of all their effects on trust for their creditors:—Held, that the directions accompanying the consignment did not constitute an appropriation, but amounted to no more than a mere mandate, revocable at the pleasure of the consignor, and which was actually revoked by the subsequent disposition of the property, &c.

But if this be so as to the first remittance, what shall be said of the second? There the remittance, which was the first attempt at a specific assignment, which was the first act that even physically designated the fund to be charged, was not made till after the bankruptcy—till after the property in the fund afterwards sought to be charged had passed to the assignees. We submit that the law laid down in *Selkrigg* v. *Davies* (2 Rose, 97, 291, 315, 316, 317) and *Sill* v. *Worswick* (1 H. Bl. 665) is not only binding on the Courts in this country, but is in strict conformity with the principles of general international law. The principle of those cases is, that each country will respect the bankrupt laws of its neighbour, and that bankruptcy in one country is an assignment of all the property belonging to the bankrupts, or which may come into the hands of the bankrupts, for their own use in another country. Now, such was exactly the case of the bills in question; they were bonâ fide indorsed to W. & E. Latham for their own use, and consequently they must have passed to the assignees under their bankruptcy. It is nothing to the point that if the Lathams had not been bankrupts they would have been morally bound to assign some bills to cover their drafts; there was nothing to designate those bills until they themselves designated them after the bankruptcy. If they had had notice of the bankruptcy, such designation would probably have been a fraudulent preference; the want of notice frees them, no doubt, from any charge of fraud, but in no respect compels their assignees to act in opposition to the trust imposed on them by their office for the benefit of the general creditors. Such a designation after bankruptcy is, in fact, a designation of another's goods to answer one's own debts, and it is submitted they can thereby no more bind their assignees in bankruptcy, than if, having indorsed the same bills for value, they should afterwards attempt to bind the indorsees by a declaration of trust. The assignees have acquired a title to the bills on another and an inconsistent trust, before any designation of the bills to answer the drafts.

Admitting, however, that foreign law could affect the rights of parties in a question of proof, it cannot do so in a question as to the existence of a lien. There is, without doubt, on questions of this kind, as on most others of international law, a conflict between the jurists; but to this extent all the jurists agree—that the conflict rests only between the lex fori and the lex domicilii debitoris, and that the "debitor" must be considered to be he against whose assets the lien is attempted to be enforced. (Story's Confl. Laws, 322 b—328, 423, 424). If he is a foreigner, there may be a question between the law of his domicil and that of the country in whose courts the right is tried; but in the case before us the "debitor" is English; the conflict is at rest, and the English law, it is submitted, must be the guiding rule.

Θεατης.

Review.

Manual of the Law of Principal and Agent. *By* E. C. Petgrave, *Attorney-at-Law.*

[*Stevens & Norton*, 1857.]

Our legal literature at the present day is prolific of short treatises and essays. Manuals and hand-books abound upon almost every conceivable branch of theoretical and practical jurisprudence. They start up into existence like mushrooms, and perish with equal rapidity. Every fresh statute, each batch of orders, and every year's list of new cases, causes the burial and the birth of a multitude of ephemeral publications, purchased, skimmed, thrown aside, and entered in the catalogue of the second-hand bibliopole, in a much shorter time than it took to compose them. We are not disposed to discourage or deal harshly with these productions. They serve many useful ends. They may be carried about in the pocket; they can be read in trains, in cabs, by fits and starts, and at odd moments. They are not so deep as to require much thought, but are perused as a relaxation from the severer efforts of the mind. By their assistance the practitioner of long standing, who has too much business upon his hands to explore a bulky volume, with the arrangement of which he is unacquainted, is enabled conveniently to refresh the memory where it fails him, as by concentration of the mind for a lengthened period upon particular topics, to the exclusion of others, it will sometimes fail every man, and can grasp without trouble to himself the result of a mass of cases without wading into the shoreless sea of digests and reports. Thither, too, the student is often referred for the primary elements of the great science upon the study of which he is entering, and from thence imbibes his first ideas of law. These brief treatises for the most part emanate from comparatively young men. Just as the German student introduces himself to the notice of the classical public by bringing out a new edition of the Hecuba or Phormio, so with us—the juvenile lawyer endeavours to push forward in his profession by shewing that there is at least one subject to which he has paid particular attention.

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* In order to constitute an equitable assignment, there must be an engagement to pay out of the *particular fund.*

These remarks have been suggested by Mr. Petgrave's work on the Law of Principal and Agent, which is now on our table; but they are not specially applicable to this little book. The author has evidently passed the limit of legal juvenility. He writes, as the Preface informs us, for the benefit of persons engaged in actual practice, and aspires to hit the happy medium between the diffuseness of Story and the brevity of Addison or Smith. Mr. Petgrave has been tolerably successful in his task, and has grouped his cases round his principles with considerable digestive skill and ingenuity of illustration. His principal merit consists in a quick comprehension of the bearing of an argument from the Bench, and of the extent of a judicial decision, and his references appear to have been generally well selected. Occasionally, too, he contrives to throw more light than is afforded by treatises of greater pretension upon some practical matters, a knowledge of which is essential to the correct understanding of the theory of the law, but requires no slight experience to attain. At the same time, the work is not free from imperfections. The definitions are sometimes too straggling, and the language deficient in that perspicuity which should be the main characteristic of all such publications. To take a couple of instances from the first chapter. In page 15 we have three successive definitions of a broker, all of which taken together no doubt embody an accurate description of his office, but of which each is severally imperfect. In page 4 Mr. Petgrave says—"One agent cannot, without committing a breach of faith, appoint another to do what he is himself directed to perform. . . . But an agent may do by the hands of another what it is in the scope of his authority to do; as, for instance, a parent who is an agent may direct a child to sign the parent's name on a bill of exchange." These sentences do not seem clearly to convey the author's meaning. They lead us to conclude that a parent who is an agent is authorised to direct his child to sign his name for him in all cases where it is within the scope of the parent's authority as agent to sign his name himself. But the proposition so broadly stated is not true. An agent may always do what is within his authority, but he may not indorse a bill by the hands of a third party, unless in the particular case he is either expressly or impliedly authorised so to do; and the case of *Lord* v. *Hall*, (19 L. J., C. P., 47), which Mr. Petgrave cites in support of his position, decided only that the question, whether an authority to indorse by the hands of a third party is included in an authority to indorse, is a question of fact to be determined by a jury. Again: in a subsequent chapter Mr. Petgrave lays down a proposition, to which he repeatedly refers, (pp. 153, 213, 228, 229), that "where a principal resides abroad, the whole credit is considered as subsisting between the immediate contracting parties." This is not law. As was shewn in our number of the 13th December, 1856, where the cases of *Mahony* v. *Kekulé* (14 C. B. 390) and *Green* v. *Kopke*, (18 C. B. 549), not noticed by Mr. Petgrave, were commented upon, and the whole subject investigated, "an agent entering into a contract for and on behalf of a foreign principal is not by any rule of law made necessarily personally liable upon such contract. The questions will be—First, did the agent enter into the contract in his own name, so that he might have been treated as the contracting party? Secondly, if he did, and if the principal was disclosed, was the credit given to the principal or to the agent? And these are questions of fact." There are other passages, though not very numerous, scattered throughout this volume, in which a similar inaccuracy or looseness of expression may be detected, but which we do not care to notice, as they are neither of much importance nor likely to mislead. We think, however, that by a little more care on Mr. Petgrave's part, these faults, trivial as they for the most part are, might have been altogether avoided. The typographical errors in the book are numerous, and indicate remissness in the drudgery, but necessary drudgery, of revision and correction during its progress through the press. Moreover, in the discussion of a doubtful question, or in pointing an analogy, where the author may be supposed to have become excited with the interest of the subject, his observations are in general very pertinent and forcible, and totally free from the vice of obscurity. In some places, however, he indulges in the objectionable practice of disfiguring the text with the names of cases, and occasionally analyses the cases themselves at unnecessary length. Results and contrast of results are what is required, and not analysis; and *Smith* v. *Brown* and *Jones* v. *Robinson* are sufficiently uninteresting in the notes. Equally do we desire to impress upon Mr. Petgrave, and upon all legal writers, that the index of cases should contain a list of all the reports in which each case is to be found. We presume that all are consulted by the writers themselves; for although material discrepancies are infrequent, yet as one report often supplies what another omits, it is not seldom that a comparison of all will alone bring out the real grounds of a judgment, or the full enunciation of a doctrine or a principle. In conclusion, we may increase by two recent cases the author's list of references. To those on the authority of the master of a ship to bind the registered owner (p. 113, note (*l*)) may be added the case of *Myers* v. *Willis*, (2 Jur., N. S., part 1, p. 788); and upon the question how far a contract entered into by the master of a ship for the benefit of the owners, but unauthorised by them, is a contract in respect of which the owners can be sued in a court of equity, the case of *Ashmall* v. *Wood* (2 Jur., N. S., part 1, p. 827; S. C., 3 Jur., N. S., part 1, p. 232) contains some valuable information.

GENTLEMEN CALLED TO THE BAR.

The following gentlemen have been called to the degree of Barrister at Law:—

Lincoln's Inn.—Edward Wood Stock, Esq., S. C. L.; Charles Seale Hayne, Esq.; Wiltshire Stanton Austin, Esq., B. A.; George Edward Martin, Esq., B. A.; George William Mounsey, Esq., M. A.; William Samuel Fyler, Esq.; Augustus Granville Stapleton, jun., Esq.; Newton Reginald Smart, Esq., M. A.; Charles William Bardswell, Esq., B. A.; Charles Foyle Randolph, Esq., B. A.; Francis Meade Eastment, Esq.; James Albert Leaf, Esq., B. A.; William Wollaston Karslake, Esq.

Middle Temple.—Theodore Jervis, Esq., St. John's Coll., Oxford; Francis Guthrie, Esq., B. A., London Univ.; Edward William James Tinney, Esq.

Inner Temple.—Charles Thomas Smith, Esq., M. A.; F. S. P. Wolferstan, Esq., B. A.; Gilmore Evans, Esq., B. A.; Albert De Rutzen, Esq., B. A.; Thomas Grey Fullerton, Esq., M. A.; Jules A. V. Naz, Esq.; Thomas Henry Griffith, Esq.; William Morris Beaufort, Esq.

PETITIONS ANNULLED.

Nathan Mitchell, Leeds, merchant.—*Charles Healy*, Manchester, wholesale clothier.

PARTNERSHIPS DISSOLVED.

Henry Smith and *Henry Small*, Buckingham, attornies and solicitors.—*Frederick I. Nicholl*, *Leigh C. Smyth*, and *Robert F. Burnett*, Carey-street, St. Clement Danes, attornies and solicitors.

TUESDAY, *May* 5.

BANKRUPTS.

THOMAS HARRISON, Harrietsham and Maidstone, Kent, coal merchant, May 11 and June 10 at 12, London: Off. Ass. Nicholson; Sol. Bennett, 35, Ludgate-hill.—Pet. f. April 7, (and *not* April 9, as before advertised).

THOMAS WARD, Bow-churchyard, stock manufacturer, May 20 at 11, and June 22 at 1, London: Off. Ass. Nicholson; Sol. Baylis, Redcross-street, City.—Pet. f. May 2.

THOMAS FREDERICK THEED, Winchester-st., Waterloo-town, Middlesex, surgeon, May 12 at half-past 11, and June 9 at 11, London: Off. Ass. Stansfeld; Sol. Jukes, 17, Bridgewater-square, Barbican.—Pet. f. April 30.

HENRY BATESON, Hadden-place, Waterloo-road, Surrey, apothecary, May 12 and June 13 at 12, London: Off. Ass. Johnson; Sol. Miller, 1, Copthall-court.—Pet. f. May 1.

JOHN FIGG, Farnham, Surrey, shoemaker, May 15 at 2, and June 18 at 1, London: Off. Ass. Whitmore; Sols. Hancock & Sharp, 20, Tokenhouse-yard.—Pet. f. May 5.

LUCY OAKLEY, Walsall, Staffordshire, draper, May 15 and June 5 at half-past 11, Birmingham: Off. Ass. Christie; Sol. Suckling, Birmingham.—Pet. d. April 30.

WILLIAM SHELDON WITHERS, Mansfield, Nottinghamshire, miller, May 19 and June 9 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Parson & Son, Mansfield; Bowley & Ashwell, Nottingham.—Pet. d. May 1.

WILLIAM PENNY, Newport, Monmouthshire, brewer, May 18 and June 15 at 11, Bristol: Off. Ass. Miller; Sols. Cathcart, Newport; Bevan & Girling, Bristol.—Pet. f. May 2.

DAVID MEYRICK, Cardiff, Glamorganshire, shoemaker, May 18 and June 15 at 11, Bristol: Off. Ass. Acraman; Sols. Salmon & Dickinson, Bristol.—Pet. f. April 28.

KITCHINGMAN GRANVIL, Halifax, Yorkshire, grocer, May 25 and June 15 at 11, Leeds: Off. Ass. Hope; Sols. Holroyd & Co., Halifax; Bond & Barwick, Leeds.—Pet. d. April 29.

EBENEZER BROOKES, Sheffield, spring-knife manufacturer, May 16 and June 27 at 10, Sheffield: Off. Ass. Brewin; Sol. Broadbent, Sheffield.—Pet. d. May 2.

WILLIAM SWINTON LAURIE, Liverpool, merchant, (formerly carrying on business with Thomas M'Leod Clark, under the style or firm of Laurie, Clark, & Co.; and also at New York, America, under the firm of Clark & Laurie; and also at Albany, New York, under the firm of Thomas M'Leod, Clark, & Co.), May 18 and June 18 at 11, Liverpool: Off. Ass. Morgan; Sols. Evans & Son, Liverpool.—Pet. f. April 29.

WILLIAM WILLIAM JONES, Portmadoc, Carnarvonshire, shipbuilder, May 22 and June 11 at 11, Liverpool: Off. Ass. Turner; Sols. Evans & Sons, Liverpool.—Pet. f. April 28.

GEORGE GILLETT, Preston, Lancashire, cabinet maker, May 19 and June 16 at 12, Manchester: Off. Ass. Fraser; Sol. Etty, Liverpool.—Pet. f. April 23.

JAMES WALLWORK, Chorley, Lancashire, cotton spinner, (trading under the style or firm of James Wallwork & Co.), May 21 and June 11 at 12, Manchester: Off. Ass. Hernaman; Sols. Hulton & Brett, Salford.—Pet. f. April 30.

ANDERSON STOKER, (and *not* ANDERSON STOKOE, as advertised on the 17th April), Findon Hill, Durham, grocer, April 27 at 11, and June 9 at 1, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Watson, Newcastle-upon-Tyne; Harwood, Clement's-lane, Lombard-street, London.—Pet. f. April 7.

MEETINGS.

John James Tagg, Reading, Berkshire, innkeeper, May 18 at 2, London, last ex.—*Edward Richard Nash*, College-hill, City, wine merchant, May 19 at half-past 11, London, last ex.—*Frederick Hofmann*, Herbert-street, New North-road, merchant, May 14 at 1, London, aud. ac.—*Arthur B. Caistor*, Baker-street, Portman-square, saddler, May 19 at 12, London, aud. ac.—*Henry Cressy Vanderpant*, Maddox-street, Bond-street, dentist, May 25 at 2, London, aud. ac.—*R. Griffith*, Penychain, Abereich, Carnarvonshire, draper, May 22 at 11, Liverpool, aud. ac.; May 28 at 11, div.—*Samuel Baker*, Birmingham, ironfounder, May 15 at half-past 11, Birmingham, aud. ac.; May 29 at half-past 11, div.—*John Wrigglesworth*, Halifax, Yorkshire, linendraper, May 26 at 11, Leeds, aud. ac. and div.—*Samuel Routledge*, Huddersfield, Yorkshire, dyer, June 9 at 11, Leeds, aud. ac.—*I. Barker*, Scarborough, Yorkshire, draper, June 9 at 11, Leeds, aud. ac.—*Peter Petch Buck*, Jervaux Abbey, Yorkshire, cattle dealer, June 9 at 11, Leeds, aud. ac. and div.—*Ramsden Rawnsley*, Copley, Halifax, Yorkshire, builder, June 9 at 11, Leeds, aud. ac.—*James Wilson*, Bowling, near Bradford, Yorkshire, innkeeper, June 9 at 11, Leeds, aud. ac.—*John Davison*, Kingston-upon-Hull, anchor maker, June 10 at 12, Kingston-upon-Hull, aud. ac. and div.—*John Bourne* and *Thos. Rowson*, Macclesfield, Cheshire, silk manufacturers, May 21 at 12, Manchester, aud. ac. joint and sep. ests.; May 28 at 12, div. sep. est. of *Thomas Rowson*; May 29 at 12, div. joint est.—*W. Waithman*, Yealand Conyers and Manchester, Lancashire; Higher Bentham and Lower Bentham, Yorkshire; and Holme Mills, Milnthorpe, Gate Beck, Westmoreland, flax merchant, May 28 at 12, Manchester, aud. ac.; June 12 at 12, div.—*Whitaker Riley*, Manchester, calico printer, May 19 at 12, Manchester, aud. ac.; May 26 at 12, div.—*Benjamin Hornby*, Hoylake, Cheshire, hotel keeper, May 26 at 11, Liverpool, div.—*J. P. Hall* the younger, Liverpool, drysalter, May 26 at 11, Liverpool, div.—*T. P. Derham* and *Wm. Bennett*, Bristol, cabinet makers, May 28 at 11, Bristol, fin. div. sep. est. of *Wm. Bennett*.—*Wm. Collison* the younger, Bath, provision merchant, May 28 at 11, Bristol, div.—*Samuel Smith Phillips*, Cardiff, Glamorganshire, provision merchant, May 28 at 11, Bristol, fin. div.—*J. Chapman*, Balsall Heath, Kingswinsford, Worcestershire, licensed victualler, May 27 at 10, Birmingham, div.—*Jas. Tomlinson*, Nottingham, timber merchant, June 9 at half-past 10, Nottingham, div.—*Nathan Clough*, Bradford, Yorkshire, painter, June 9 at 11, Leeds, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Kennard, Little Queen-street, Holborn, ironmonger, May 26 at half-past 11, London.—*Lionel Creasy* and *John Creasy*, Turnham-green, butchers, May 27 at 1, London.—*Samuel Muddiman*, Northampton, shoe manufacturer, May 27 at 2, London.—*Thomas Charles Medwin* and *Cresswell Hall*, Blackfriars-road, Surrey, engineers, May 27 at 12, London.—*Henry Dyer*, Bristol, cabinet maker, May 26 at 11, Bristol.—*John Lockhart Donald*, Newcastle-upon-Tyne, watchmaker, May 28 at 1, Newcastle-upon-Tyne.—*Alexander Alcock Nevins*, Liverpool, merchant, May 26 at 11, Liverpool.—*James Taylor*, Bottoms Hall Mill, Tottington Lower End, Lancashire, cotton spinner, May 29 at 12, Manchester.—*James Chatterton* and *Moses Chatterton*, Horncastle, Lincolnshire, millers, June 10 at 12, Kingston-upon-Hull.—*John Timmis*, Lilleshall, Shropshire, timber merchant, May 28 at half-past 10, Birmingham.—*James Smith*, Walsall, Staffordshire, marine store dealer, May 28 at 10, Birmingham.—*C. James*, Loughborough, Leicestershire, victualler, May 26 at half-past 10, Nottingham.—*T. Smith*, Nottingham, licensed victualler, May 26 at half-past 10, Nottingham.—*S. Smith*, Derby, iron merchant, May 26 at half-past 10, Nottingham.

To be granted, unless an Appeal be duly entered.

George Ingersent, Mall, Notting-hill, licensed victualler.—*Adolphus Scherman*, George-street, Minories, and New Broad-street, City, general merchant.—*Albert King*, Chiswell-street, Finsbury, wholesale grocer.—*Thomas Cornell*, King-street, Regent-street, St. James's, carver and gilder.—*Henry Garnett*, Dover, Kent, stationer.—*Wm. Edward Hawkey*, Sykes-terrace, Mile-end-road, tailor.—*George Henderson*, Stanhope-terrace, Regent's-park, apothecary.—*Thomas Butt*, Littlehampton, Sussex, ironmonger.

PETITION ANNULLED.

Samuel Danford, Battersea-fields, Surrey, and George-yard, Lombard-street, City, money scrivener.

PARTNERSHIP DISSOLVED.

Philip Henry Watts and *Ezekiel Charles Thomas Johnson Pelgrave*, Bath, attornies-at-law and solicitors.

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GAZETTES.—Friday, *May* 8.

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JAMES SWIFT, Gravesend, Kent, statuary mason, May 19 at 11, and June 18 at 12, London: Off. Ass. Bell; Sol. Buchanan, Basinghall-street.—Pet. f. May 7.

JAMES CATT, High-st., Southwark, Surrey, and Lewisham and Greenwich, Kent, hop merchant, May 19 at 2, and June 16 at 1, London: Off. Ass. Lee; Sols. Piercy & Hawks, 2, Three-crown-square, Southwark.—Pet. f. May 7.

WILLIAM OGILVIE CAMERON, Camomile-street, City, export oilman, May 19 at 2, and June 23 at 12, London: Off. Ass. Stansfeld; Sols. Buchanan, 13, Basinghall-street; Chidley, 10, Basinghall-street.—Pet. f. May 6.

JAMES SUMMERS, Hatton-garden, wholesale jeweller, (trading under the style or firm of James Summers & Co.), May 20 at 2, and June 16 at half-past 1, London: Off. Ass. Graham; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. May 7.

ROBERT JAMES NORTON, Fleet-street, City, ladies' outfitter, May 19 at half-past 1, and June 16 at 1, London: Off. Ass. Graham; Sol. Cattlin, Ely-place, Holborn.—Pet. f. May 1.

THOMAS STUTELY, Sheerness, Kent, stonemason, May 25 at 1, and June 29 at 12, London: Off. Ass. Nicholson; Sol. Selby, 15, Coleman-street.—Pet. f. May 7.

WILLIAM GEORGE BROWN, Dartford, Kent, clothier, May 23 at 11, and June 19 at 12, London: Off. Ass. Cannan; Sol. Chidley, 10, Basinghall-street.—Pet. f. May 7.

THOMAS RILEY EBSWORTH, Wapping-wall, Middlesex, and Forest-villa, Forest-hill, Sydenham, Kent, ale merchant, May 22 at half-past 12, and June 19 at 11, London: Off. Ass. Cannan; Sol. Wellbore, 17, Duke-street, London-bridge, Southwark.—Pet. f. May 5.

THOMAS BRADLEY, Kidderminster, Worcestershire, apothecary, May 22 and June 12 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Boycott, Kidderminster; Knight, Birmingham.—Pet. d. May 6.

HENRY WHEELER, Derby, painter, May 26 and June 9 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham; Foottit, Derby.—Pet. d. May 6.

THOMAS DAVIES, Neath, Glamorganshire, contractor, May 19 and June 16 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan & Girling, Bristol.—Pet. f. May 4.

WILLIAM STEPHENS, Gloucester, cattle salesman, May 25 and June 16 at 11, Bristol: Off. Ass. Miller; Sol. Wilkes, Gloucester.—Pet. f. May 5.

Meetings.

Thomas Russell, M. A., Oxford, schoolmaster, May 19 at 12, London, last ex.—*Wm. Hadfield*, Cockspur-street, merchant, May 19 at half-past 1, London, last ex.—*Alexander Oldfield*, Devonshire-st., Queen-square, Bloomsbury, bookbinder, May 19 at half-past 1, London, last ex.—*James Stevens Tripp*, Lombard-street-chambers, Clement's-lane, City, dealer in mining shares, May 20 at 12, London, last ex.—*Robert Taylor*, Sunderland, Durham, draper, May 19 at 11, Newcastle-upon-Tyne, last ex.; at half-past 11, aud. ac.—*George Augustus Hamilton Chichester*, York-buildings, Adelphi, commission agent, May 20 at 12, London, aud. ac.—*Hillyard Nicholls*, Bedford, corn merchant, May 21 at 1, London, aud. ac.; May 29 at 12, div.—*Wm. Wood*, Aldersgate, City, commission agent, May 21 at 1, London, and. ac.; May 29 at half-past 12, div.—*Thomas Cornell*, King-street, Regent-street, St. James's, carver and gilder, May 21 at half-past 12, London, aud. ac.—*Joshua Downing Stanbury*, Richmond, Surrey, draper, May 21 at half-past 12, London, aud. ac.; May 29 (and *not* May 23, as before advertised) at half-past 11, fin. div.—*Uriah Giscard*, King's Lynn, Norfolk, cabinet maker, May 21 at 12, London, aud. ac.—*Henry Knight Furnell* and *Albert Kahl*, Fenchurch-street, City, insurance brokers, May 21 at 12, London, aud. ac.—*Robert Newens*, Richmond, Surrey, baker, May 21 at half-past 12, London, aud. ac.—*Thomas Johnson*, Broad-street-buildings, City, merchant, May 21 at 12, London, aud. ac.—*J. Norton*, Norwich, malt merchant, May 21 at 11, London, aud. ac.—*Tilden Chrismas*, Chatham and Sheerness, Kent, coal merchant, May 19 at 12, London, aud. ac.—*Charles Wilkins* and *Wm. Wilkins*, Chipping Lamburne, Berkshire, builders, May 19 at 11, London, aud. ac.—*Edwin Shepherd* and *W. Shepherd*, Crane-court, Fleet-street, City, lozenge manufacturers, May 21 at 12, London, aud. ac.—*William Stapleton*, Paddington, contractor, May 19 at 1, London, aud. ac.—*Jas. Donald* and *John Lockhart Donald*, Newcastle-upon-Tyne, watchmakers, May 19 at 12, Newcastle-upon-Tyne, aud. ac.—*Benjamin Hornby*, Hoylake, Cheshire, hotel keeper, May 25 at 11, Liverpool, aud. ac.—*John Parker Hall* the younger, Liverpool, drysalter, May 19 at 11, Liverpool, aud. ac.—*W. Smith Gooding*, Manchester, tailor, May 20 at 12, Manchester, aud. ac.—*Joseph Suckling* the younger, Birmingham, hop dealer, May 22 at half-past 11, Birmingham, aud. ac.—*Edw. Fenton*, Batley Carr, Yorkshire, rag merchant, May 21 at 11, Leeds, aud. ac.—*Thos. Hardacre*, Settle, Yorkshire, mercer, May 21 at 11, Leeds, aud. ac.—*Robert King*, Knaresborough, Yorkshire, woollendraper, May 21 at 11, Leeds, aud. ac.—*Henry Stott*, Halifax, Yorkshire, grocer, May 21 at 11, Leeds, aud. ac.—*Joseph Greenwood*, Keighley, Yorkshire, woolstapler, May 21 at 11, Leeds, aud. ac.—*George Constantin Franghiadi*, Old Broad-street, City, merchant, June 1 at 12, London, div.—*Thomas Burnell* and *Wm. Shelford Fitzwilliam*, King William-street, City, merchants, June 2 at 11, London, div.—*R. H. Hill*, *G. R. Hudson*, and *F. Hudson*, London-wall, City, warehousemen, June 4 at 11, London, div.—*Wm. Strahan*, *Sir John Dean Paul*, *Bart.*, and *Robert Makin Bates*, Strand, bankers, June 2 at 12, London, div. joint and sep. ests.—*William Augustin Reeves*, Wallingford, Berkshire, baker, June 2 at 11, London, div.—*Richard Dutton*, Sambrook-court, Basinghall-street, City, wool broker, June 2 at half-past 11, London, div.—*Alfred Langford*, Lewes, Sussex, brewer, June 2 at 12, London, div.—*William Wilson* and *Henry Wilson*, Foley-place, Portland-place, bookbinders, May 29 at 11, London, div.—*William Buckland*, Ealing, Middlesex, corn merchant, May 29 at half-past 11, London, div.—*Joseph Cooper* the elder, *Joseph Cooper* the younger, and *Joe Cooper*, Holehouse-mills, Chisworth, near Glossop, Derbyshire, cotton spinners, May 22 at 12, Manchester, aud. ac. joint est., and aud. ac. sep. est. of *Joseph Cooper* the younger; May 29 at 1, div. joint est., and div. sep. est. of *Joseph Cooper* the younger.

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William Dickens Eves, Seven Sisters-road, Holloway, and Old-street, St. Luke, victualler, June 2 at 11, London.—*William Joseph White* and *Lacey Bathurst*, Regent-street, Westminster, drapers, May 29 at 11, London.—*Samuel Adams*, Ware, Hertfordshire, banker, May 29 at half-past 1, London.—*Osborn Engall Teasel*, Norwich, timber merchant, May 30 at 12, London.—*Benj. Hornby*, Hoylake, Cheshire, hotel keeper, June 1, at 12, Liverpool.

To be granted, unless an Appeal be duly entered.

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Scotch Sequestrations.

Alexander Milne, Dundee, baker.—*Sangster & Dunlop*, Edinburgh, wholesale stationers.—*A. M. Ross & Co.*, Edinburgh, fancy goods warehousemen.—*D. Campbell*, Amulree, and Woodside, near Doune, Perthshire, innkeeper.—*John Ferguson*, Partick, near Glasgow, flesher.—*David Stewart*, Forfarshire, contractor.—*Thomas Walsh*, Glasgow, wine merchant.—*James Rutherford*, Crieff, Dundee, gala-cloth manufacturer.—*James Hamilton*, Stonehouse, Lanarkshire, general merchant.—*John Young*, Edinburgh.—*Patrick Alexander Falconer*, Glasgow, clothier.—*Andrew Bremner*, Edinburgh,

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THE JURIST.

LONDON, MAY 16, 1857.

THE question, how far the liability of sureties is affected by a change in the status of their principal, has been considered by our Courts on several recent occasions. The circumstances under which it has generally arisen have been, that the sureties have become bound for the acts of their principal while he was filling a certain office, and that afterwards a statute has been passed altering the tenure or the duties of his office. In all these cases the continuing liability or non-liability of the sureties must be determined by reference to the contract into which they have entered. While, on the one hand, where the risk is increased in a manner which they never contemplated, they may well say, "non hæc in fœdera veni;" yet, on the other, it is perfectly competent for them to bind themselves beyond the limits of the office filled by their principal at the time of their obligation being incurred, and they cannot claim to be discharged merely by reason of a change in the duration or the duties of such office. The principal authority upon this subject is *Oswald* v. *The Mayor of Berwick-upon-Tweed*, (5 H. L. C. 586; 2 Jur., N. S., part 1, p. 743), which was decided last year in the House of Lords. The facts were these:—In 1842 David Murray had been appointed treasurer to the borough of Berwick. This was under a resolution of the mayor and corporation, declaring what were his duties, that he should find sureties in 2000*l.*, and "should be appointed for the remainder of the year ending the 9th November next, if it should so long please the council, but not otherwise." Upon his appointment he and his sureties gave to the corporation a bond, which recited the appointment of Murray as treasurer for the remainder of the year ending the 9th November, 1842, if it should so long please the council, but not otherwise. It was then provided that the sureties should be bound for Murray during the whole time of his continuing in office in consequence of the said election, "*or under any annual or other future election*" of the said council to the said office. At the time when this bond was executed the office of treasurer was an annual office, to which, under the 5 & 6 Will. 4, c. 76, s. 58, the council was in every year to appoint; but in August, 1843, while Murray was still holding the office, another statute (the 6 & 7 Vict. c. 89) came into operation, which directed the council in future to appoint to such office *during pleasure.* Murray was re-elected under this new law, and the first question was, whether this was a "future election to the office" within the meaning of the bond, so as to render the sureties liable for a subsequent default of their principal. This question was answered in the affirmative. "It is certain," said Alderson, B., delivering the opinion of the judges, "that the sureties meant not to limit their responsibility to the first election, for they agree to be bound 'if David Murray continues in the said office under any annual or other future election.' What do these words mean? In the first place, they mean that he must continue in the said office; and this restrains the liability, not merely by the continuity, but also by the identity of the office. Its duties, therefore, primâ facie must not be changed, its liabilities and checks must not be varied, nor even its duration or tenure altered. But then this last, it is said, is specially provided for by the other words, 'annual or other future election;' for the natural meaning of these words is, 'any future election, whether annual or other than annual.' If so, the bond contains a declaration that the sureties will be liable, though the duration or tenure of the office may be changed, and although the appointment may cease to be annual. And, in truth, that change entails all the consequences which necessarily follow it, even as to the change of liabilities, if any there be; for if the change of the duration is contemplated, and the mere change of duration necessarily varies the liability to account, that alteration of the liability to account must be considered as also contemplated." In answer to an argument that the bond should be construed as containing a recital that the future appointment must be made according to the law which was in force when the bond was given, the learned judges said—"The reason for referring to the recitals in a deed is, because, from the circumstances and facts there stated, the parties themselves have plainly expressed their intention; and consequently, in accordance with that expressed and specified intention, the Courts construe and modify the more general words of their covenant. But it is somewhat strange to propose that the Courts should construe their covenant by what must be at most an implied recital suggested by the counsel, and that where there is no express recital on this subject at all; and therefore we can only in the present case construe the words of the covenant without any such light being thrown upon them."

To the same effect is the decision of the Court of Queen's Bench in *The Mayor, &c. of Dartmouth Hardness* v. *Silly*, (26 L. J., Q. B., 90). There the facts were precisely similar to those of the preceding case, as to the nature and change of the office, but the bond contained a recital that the treasurer of the borough had been appointed under the stat. 5 & 6 Will. 4, c. 76, and its condition was, that he should at all times account for and apply all monies in his hand as treasurer (whether by virtue of his present or any subsequent appointment to the said office) according to the direction and intent of the said statute, and in every other respect act in conformance with the same, "*and all other laws and regulations now or hereafter to be in force touching the said office of treasurer, or the person or persons performing, or liable to perform, the duties thereof.*" It was held that the sureties were liable for a breach of duty by the treasurer, under an appointment during pleasure, by virtue of the stat. 6 & 7 Vict. c. 89. Lord Campbell, C. J., delivering the judgment of the Court, said, "Unless there be words in the condition of the bond to continue the obligation after such a change in the tenure of the office, there can be no doubt that it would be extinguished both as to principal and sureties. The condition recites that the appointment to the office of treasurer was under the 5 & 6 Will. 4, c. 76, and without any such recital parties to such a bond are always supposed to contract according to the existing state of the law, and in the belief that the law will continue unchanged, if they make no provision for the contingency of a change in the law. But, as observed by Maule, J., in *Oswald* v. *The Mayor of Berwick*, 'there is nothing to prevent parties, if they choose by apt words to express an intention so to do, from binding themselves by a contract as to any future state of the law. Supposing that the parties to this bond had contemplated that some alterations might be made by law in the office of treasurer, there would have been nothing illegal in the sureties binding themselves to be answerable, though the nature and tenure and duties of the office were changed.' Now, looking to the whole of the condition of the present bond, we think that it is framed with this view, and that it contains language more potent for this purpose than any to be found in the instrument adjudicated upon in *Oswald* v. *The Mayor of Berwick*." In *Pybus* v. *Gibb and Others* (3 Jur., N. S., part 1, p. 315; 26 L. J., Q. B., 41) the condition of a bond recited that a bailiff of a county court had been appointed under the 9 & 10 Vict. c. 95, and stipulated for the proper execution by him of all warrants issued out of the said court to the high bailiff, and for his due performance of the office of bailiff, and for his not taking any fees except those specified in that act. Statutes were afterwards passed increasing the jurisdiction of the county court in point of amount, giving it jurisdiction in matters of insolvency and over absconding debtors, and enabling any one of the bailiffs authorised by the judge to sell goods seized in execution without the intervention of a sworn broker. The Court of Queen's Bench held, that by these statutes the duties and liabilities of the office were essentially changed, and the risk of the sureties increased, and that consequently they were discharged, although the breach of duty relied on arose entirely out of the original duties of the office. It was argued, that as the breach which actually occurred would have been a breach before any new duties were imposed, the sureties were still liable pro tanto, and that the bond remained as a bond applicable to the old duties. But the Court held that such a severance could not be made, both upon principle and on the authority of *Bonar* v. *Macdonald*, (3 H. L. C. 226). Coleridge, J., said, "The liability of the sureties is increased as to the old duties by the fact of new duties being cast upon the principal; and in common sense this must be so. A prudent man would not consider it the same thing to be surety for a person who has to perform duties imposing a slight pecuniary responsibility, and for one whose duties involved greater pecuniary responsibility. In all those cases the solvency of the principal is a material element. I may be willing to guarantee the performance of his duties by the bailiff of a court which is limited to the recovery of debts under 20*l.*; but if I were told that he was also to discharge duties relating to a court of bankruptcy, or of a court of unlimited jurisdiction, I might be very unwilling to execute the bond." Wightman, J., said, "It may be taken as a principle of law, that a bond by a surety, conditioned for the due performance by his principal of the duties of an office, is rendered null if the office or its duties are so altered as in any degree to increase or vary the risk of the surety to his possible disadvantage. . . . The bailiff might be very competent, in the opinion of the sureties, to execute the duties of the office of bailiff of the limited jurisdiction, but not if other important duties are cast upon him." Upon similar grounds sureties were held to be discharged in the late case of *Badger* v. *Finch*[*]. They had entered into a bond for the due discharge by an income-tax collector of the duties of his office. The bond recited that he had been appointed collector of the property, income, and assessed taxes which had been or thereafter should be charged or assessed within a certain parish "under and by virtue of the several acts relating to the said duties." By a subsequent act the income tax was raised 2*d.* in the pound. The Court held that the new act increased the risk, and that the condition of the bond contemplated only the collection of money under the statutes which were in existence at the time when the bond was given.

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[*] Q. B., April 24, 1857.

MR. KERR'S EDITION OF BLACKSTONE.

Our attention has been directed to some coincidences or resemblances, designed or undesigned, between certain of the notes in Mr. Kerr's edition of Blackstone's Commentaries and the notes in the edition of Chitty's Blackstone by Messrs. Hargrave, Sweet, Couch, and Welsby; and we have been asked to characterise the method of "editing" which has resulted in the phenomena in question. We decline to do that, but we print below some samples of the coincidences or resemblances to which we have been referred, and leave them to the consideration of those who may feel an interest in the matter. We may add that some of the parallel passages to which we have been referred are the substance of notes contained in Christian's or Coleridge's edition, reprinted fairly, with the author's name suffixed in every instance, in the twenty-first edition, but appropriated by Mr. Kerr without any acknowledgment; and these are notes, not drily stating statutory changes in the law subsequent to the date of the Commentaries, but being merely ornamental or unnecessary additions to the text. For instance, at p. 137 of the first volume, Mr. Hargrave borrowed and acknowledged a note from Christian thus:—

"(14). It is said that exile was first introduced as a punishment by the Legislature in the thirty-ninth year of Elizabeth, when a statute enacted that 'such rogues as were dangerous to the superior people should be banished the realm;' (39 Eliz. c. 4; see Barr. Ant. Stat. 260); and that the first statute in which the word 'transportation' is used is the 18 Car. 2, c. 3, which gives a power to the judges, at their discretion, either to execute or transport to America for life the moss-troopers of Cumberland and Northumberland, (2 Woodd. 498), a law which very unnecessarily was continued till the 31 Geo. 2, c. 42, and then made perpetual.—[Christian.]"

In the original note Mr. Christian of course acknowledged his obligations to Barrington and Wooddeson, and Mr. Hargrave, in reprinting it, carefully referred it to its author. Not so Mr. Kerr, who drops the "on dit," and tells us positively, from his own inspiration, that "exile was first introduced as a punishment in the reign of Queen Elizabeth, when it was enacted that 'such rogues as were dangerous to the superior people should be banished the realm.' (39 Eliz. c. 4). The first statute in which the word 'transportation' is used is the 18 Car. 2, c. 3, which gives a power to the judges, at their discretion, either to execute or transport to America for life moss-troopers of Cumberland and Northumberland."

For another instance, too long for quotation, see Mr. Justice Coleridge's note (borrowed and acknowledged by Mr. Hargrave, and borrowed and not acknowledged by Mr. Kerr) on the suspension of the Habeas Corpus Act. (1 Bl. 136).

At p. 143, in a note to the reference by Blackstone to the act of 13 Car. 2, st. 1, c. 5, against tumultuous petitioning, Mr. Chitty says—"The punishment for an offence against the act is a fine to any amount not exceeding 100*l.* and imprisonment for three months. At the trial of Lord George Gordon the whole Court, including Lord Mansfield, declared that this statute was not affected by the Bill of Rights, 1 Will. & M. st. 2, c. 2; (see Dougl. 571); but Mr. Dunning, in the House of Commons, contended 'that it was a clear and fundamental point in the constitution of this country that the people had a right to petition their representatives in Parliament, and that it was by no means true that the number of names signed to any such petition was limited. To argue that the act of Charles was now in force would be as absurd as to pretend that the prerogative of the Crown still remained in its full extent, notwithstanding the declaration in the Bill of Rights.' (See New Ann. Reg., 1781, vol. 2)." This note Mr. Kerr repeats verbatim as his own.

At p. 163, Mr. Hargrave has a long note commencing thus:—"In the late case of *Stockdale* v. *Hansard* (7 Car. & P. 737; 9 Ad. & El. 1; 11 Ad. & El. 253) the extent to which the Courts of justice can take cognisance of, and even control, the privileges claimed by the House of Commons, has undergone much discussion. The circumstances of that case were briefly as follows: —The House of Commons ordered a certain report to be printed, containing matter reflecting upon Stockdale, which if printed by any private person would have been a libel," &c. Mr. Kerr's "own" note in the same place begins thus, and bears throughout an equal resemblance to that of his predecessor:—"In the case of *Stockdale* v. *Hansard* (7 Car. & P. 737; 9 Ad. & El. 1; 11 Ad. & El. 253) the extent to which the Courts of justice can take cognisance of the privileges of the House of Commons was much discussed. The House of Commons had ordered a certain report to be printed, containing matter reflecting upon Stockdale, which if printed by a private person would have been a libel," &c.

At p. 248, Mr. Hargrave says—"On the aberration of mind of George III, his son, the Prince of Wales, (afterwards George IV), was declared regent by express act of Parliament, (51 Geo. 3, c. 1), but with certain restrictions, which in the following year were removed by the 52 Geo. 3, c. 8. By the 1 Will. 4, c. 2, the present Duchess of Kent was appointed the guardian of her daughter (her present Majesty) until she attained the age of eighteen years; and it was also declared that the duchess should be the regent during the Queen's minority; but her Majesty having attained the age of eighteen years before the death of William IV, no regency took place. Lastly, by the 3 & 4 Vict. c. 52, his Royal Highness Prince Albert," &c. This is given by Mr. Kerr verbatim (except in the substitution of "finally" for "lastly") as his own.

At p. 269, Mr. Hargrave says—"That the prerogative of mercy should be lodged in the Crown does not seem to be owing to the legal fiction that the king is the injured party, but rather to the necessity of placing the power of forgiveness where it may be promptly and judiciously exercised. . . . . The executive has, therefore, in all countries, naturally and necessarily been invested with this prerogative. (See 2 Inst. 233; Show. 1, 284; Ld. Raym. 214; 2 T. R. 569)."

Mr. Kerr's note runs thus:—"The prerogative of mercy would seem to be lodged in the Crown, not so much from the legal fiction that the sovereign is the injured party, as from the necessity of placing it," &c., as above.

At p. 272, Mr. Hargrave, after stating the effect (not the words) of the provisions in the stat. 31 Hen. 8, c. 8, relating to the king's proclamations, cites Burnet's remark, that "it was upon this act all the great changes in the national religion made during the minority of Edward VI were grounded." Mr. Kerr, in the same place, happens to state the effect of the proviso in the same words, and also remarks, not after Burnet, but originally, that "upon this statute were founded all the changes in the national religion made during the minority of Edward VI."

At p. 343, Mr. Hargrave says, "Before summoning the Long Parliament, Charles I appointed seven of the leading patriots sheriffs by prerogative, in order to prevent their being returned to Parliament." At the same place Mr. Kerr says the same thing in the same words, omitting "by prerogative."

In vol. 2, at p. 32, Mr. Sweet says, "In like manner are the lands belonging to the numerous alien priories and abbeys dissolved in 1415 by the stat. 2 Hen. 5 liable to tithes. (See 2 J. & W. 528, 534). But the lands of the lesser monasteries, which were surrendered after the 27 Hen. 8, and of the Knights of St. John, given to the king by the stat. 32 Hen. 8, c. 24, are within the 31 Hen. 8, c. 13, s. 21. (1 Y. & C. 19; 6 Bac. Ab. 756)." Mr. Kerr knows all about it without the help of books, and says, "In like manner the lands belonging to the numerous alien priories and abbeys dissolved in 1415 by the stat. 2 Hen. 5 remained liable to tithes. But the lands of the lesser monasteries, surrendered after the 27 Hen. 8, c. 28, and of the Knights of St. John, given to the king by the stat. 32 Hen. 8, c. 24, are within the meaning of the stat. 31 Hen. 8, c. 13."

At p. 283, Mr. Sweet copies a note on waste, by Christian, and appends Christian's name to it; but in the note he has interpolated references to 2 Swanst. 149, n.; Hargr. Co. Litt. 220; 16 Ves. 185; Jac. 71; and 6 Sim. 497. Mr. Kerr gives the note, with the same references, as Christian's, and does not cite the decisions subsequent to the publication of Mr. Sweet's note. Several other notes by Christian, with additions by Mr. Sweet, appear in Mr. Kerr's book with the same additions. But, though our materials are far from being exhausted, we and our readers have had "somewhat too much of this."

NOTES OF THE WEEK.

PARLIAMENTARY.

A SELECT committee has been appointed to consider whether the privilege conferred on reports of legal proceedings should not be extended to reports of the proceedings in Parliament and other public assemblies.

A select committee has also been appointed to inquire into the expediency of changing the mode in which witnesses are sworn to give evidence before committees of the House of Lords.

Government is about to introduce a bill that will afford greater precautions against wilful and accidental poisoning.

The Lord Chancellor's bill relating to probate and letters of administration, and his bill relating to marriages and divorce, have been read the first time. They differ from the bills introduced by him last session in two respects—the Court of Probate is to be separated not only from the Court of Chancery, but also from every judge of the Court of Chancery; and the clause giving a legal sanction to mutual agreements for the separation of husband and wife has been struck out from the divorce bill.

EXAMINATIONS AT THE INCORPORATED LAW SOCIETY.

EASTER TERM, 1857.

AT the examination of candidates for admission on the roll of attornies and solicitors of the superior courts, the examiners recommended as deserving of equal honorary distinction the following gentlemen:—

Henry Kirke Hebb, of Lincoln, who served his clerkship to Mr. Joseph Moore, of Lincoln, and Messrs. Scott, Tahourdin, & Shaw, of Lincoln's-inn-fields.

Walter Bullar Ross, of Ipswich, who served his clerkship to Mr. Simon Batley Jackaman, of Ipswich, and Messrs. Aldridge & Bromley, of South-square, Gray's-inn.

William Henry Walsh, of Oxford, who served his clerkship to Mr. William Sale, of Manchester, and Messrs. Pownall, Son, & Cross, of Staple-inn, Holborn.

The Council of the Incorporated Law Society have accordingly awarded a prize of books to be presented to each of those candidates.

The examiners have also certified that the following candidates passed examinations very little inferior to those who have been reported for prizes:—

1. Henry William Bradford, of Westmeon, Hampshire, who served his clerkship to Mr. James Templer, of Bridport, and Messrs. Clowes, Son, & Hickley, of King's Bench-walk, Temple.

2. Henry William Bainton, of Beverley, Yorkshire, who served his clerkship to Mr. James Baker Bainton, of Beverley, and Mr. John England, of Beverley and Hull, and Mr. James Sidney Hargrove, of Lincoln's-inn-fields; and

Thomas Berridge, of Melton Mowbray, who served his clerkship to Mr. Sommersby Edwards, of Long Buckby, and Mr. George Capes, of Field-court, Gray's-inn.

3. John Latham Press, of Hingham, Norfolk, who served his clerkship to Mr. Edward Palmer Clarke, of Wymondham, and Mr. John White, of Barge-yard-chambers, Bucklersbury.

By order of the Council,
ROBERT MAUGHAM, Secretary.

Court Papers.

COMMON-LAW SITTINGS, IN AND AFTER TRINITY TERM, 1857.

Court of Queen's Bench.

In Term.

MIDDLESEX.	LONDON.
1st sitting .. Monday, *May* 25	1st sitting, Friday .. *May* 29
2nd sitting .. Monday .. *June* 1	2nd sitting, Friday .. *June* 5
3rd sitting .. Monday 8	
For undefended causes only.	

After Term.

Saturday .... *June* 13	Saturday .... *June* 27

The Court will sit at ten o'clock every day.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

Court of Common Pleas.

In Term.

MIDDLESEX.	LONDON.
Tuesday .... *May* 26	Friday .... *May* 29
Tuesday .... *June* 2	Friday .... *June* 5

After Term.

Saturday .... *June* 13	Thursday .... *June* 25

The Court will sit during and after term at ten o'clock.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

Exchequer of Pleas.

In Term.

MIDDLESEX.	LONDON.
1st sitting, Monday .. *May* 25	1st sitting, Friday .. *May* 29
2nd sitting, Monday .. *June* 1	2nd sitting, Friday .... *June* 5
3rd sitting, Monday 8	

After Term.

Saturday .... *June* 13	Saturday .... *June* 27

The Court will sit during and after term at ten o'clock.

The Court will sit in Middlesex, at Nisi Prius, in term, by adjournment from day to day, until the causes entered for the respective Middlesex Sittings are disposed of.

writer.—*Roderick Chisholm*, Inverness, tea merchant.—*James Macpherson & Co.*, Leith, plumbers.

TUESDAY, *May* 12.

Bankrupts.

SPEGEL MORICE, Coleman-street, City, importer of foreign and fancy goods, (trading under the style or firm of Morice, Newmann, & Co.), May 26 and June 23 at 12, London: Off. Ass. Stansfeld; Sol. Bailey, Tokenhouse-yard.—Pet f. May 8.

JONATHAN CRUSE, Kintbury, near Hungerford, Berkshire, builder, May 25 at half-past 1, and June 29 at 2, London: Off. Ass. Pennell; Sols. Pinniger & Sons, Newbury, Berkshire; Gregory & Co., 1, Bedford-row, London.—Pet. f. May 9.

RICHARD GALE, Skirmett, Hambledon, Buckinghamshire, grocer, May 21 and June 18 at 11, London: Off. Ass. Johnson; Sols. Rhodes & Co., 63, Chancery-lane.—Pet. f. May 5.

CASTLE BRANGWIN the younger, Blackheath-road, Greenwich, and High-street, Deptford, Kent, grocer, May 21 at half-past 12, and June 18 at 1, London: Off. Ass. Bell; Sols. Atkins & Co., White Hart-court, Lombard-stret.—Pet. f. May 4.

MARY HUDDLESTON and THOMAS HUDDLESTON, formerly of Nassau-street, but now of Berners-street, Oxford-street, cabinet makers, May 25 at 11, and June 29 at 1, London: Off. Ass. Pennell; Sol. Tate, 32, Bucklersbury.—Pet. f. May 4.

JAMES MAY, Goswell-street, Clerkenwell, linendraper, May 29 and June 26 at 1, London: Off. Ass. Whitmore; Sol. Giles, 118, London-wall.—Pet. f. May 12.

WILLIAM ORGAN, Walsall, Staffordshire, saddler, May 27 and June 15 at half-past 10, Birmingham: Off. Ass. Whitmore; Sols. Thomas, Walsall; Hodgson & Allen, Birmingham.—Pet. d. May 6.

SAMUEL ARMSON, Sedgley, Staffordshire, builder, May 22 and June 12 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Pinchard & Shelton, Wolverhampton; Hodgson & Allen, Birmingham.—Pet. d. May 11.

SAMUEL STARMER, Wolverhampton, shoe manufacturer, May 27 and June 15 at half-past 10, Birmingham: Off. Ass. Whitmore; Sols. Kitson, Wolverhampton; Knight, Birmingham.—Pet. d. May 7.

JOHN BARNES, Dorchester, dealer and chapman, May 20 and June 18 at 1, Exeter: Off. Ass. Hirtzel; Sols. Templer & Son, Bridport; Terrell, Exeter.—Pet. f. May 4.

WILLIAM LEAKE, Lane, Holme, Almondbury, Yorkshire, cattle dealer, May 25 at half-past 11, and June 22 at 11, Leeds: Off. Ass. Hope; Sols. Floyd & Learoyd, Huddersfield; Bond & Barwick, Leeds.—Pet. d. May 8.

ANTHONY CROWTHER and WILLIAM CROWTHER, Huddersfield, curriers, May 29 and June 26 at 11, Leeds: Off. Ass. Young; Sols. Floyd & Learoyd, Huddersfield; Bond & Barwick, Leeds.—Pet. d. May 11.

HENRY HARRISON, Sheffield, tailor, May 23 and June 27 at 10, Sheffield: Off. Ass. Brewin; Sols. Hoole & Yeomans, Sheffield.—Pet. d. May 7.

NEPTUNE SEAL and JOHN SEAL, Denton, Lancashire, and Birmingham, hat manufacturers, May 22 and June 12 at 1, Manchester: Off. Ass. Hernaman; Sols. Darnton, Ashton-under-Lyne; Sale & Co., Manchester.—Pet. f. May 8.

WILLIAM JONES, Carnarvon, coal merchant, May 25 and June 16 at 11, Liverpool: Off. Ass. Casenove; Sol. Woodburn, Liverpool.—Pet. f. May 9.

Meetings.

Chas. Higgins, Bridge-street, Salisbury, Middlesex, brewer, May 28 at 11, London, aud. ac.—*W. D. Eves*, Seven Sisters-road, Holloway, and Old-street, St. Luke's, victualler, June 2 at 11, London, aud. ac.—*James Ochse*, Basinghall-street, City, dealer in French china, May 22 at half-past 11, London, aud. ac.—*Wm. Buckland*, Ealing, Middlesex, corn merchant, May 22 at 11, London, aud. ac.—*Edwin Mosley*, Hyde-street, Bloomsbury, gold beater, May 27 at 12, London, aud. ac.—*Benj. Browning*, St. Peter, Herefordshire, victualler, May 28 at half-past 10, Birmingham, aud. ac.—*Thos. Dillon*, Halifax, Yorkshire, shoemaker, May 25 at 11, Leeds, aud. ac.—*Charles Margerison* and *Ernest B. Fort*, Savage-gardens, Tower-hill, City, wine merchants, June 3 at 1, London, div. sep. est. of *Ernest B. Fort*.—*James Symes*, *Edw. B. Symes*, and *Reuben Raper*, Strand, Middlesex, electro platers, June 2 at 12, London, div. joint ests., and div. sep. ests. of *Edw. B. Symes* and *James Symes*.—*John L. Gadd*, Whitechapel-road, Middlesex, draper, June 2 at 12, London, div.—*J. Sworder*, Ware, Hertfordshire, maltster, June 4 at half-past 11, London, div.—*David A. Ramsay*, Kensington-park-terrace, Notting-hill, builder, June 4 at 1, London, div.—*Wm. Jones*, Broadway, Westminster, draper, June 4 at 12, London, div.—*John Grogan*, Stockbridge-terrace, Pimlico, musical instrument dealer, June 4 at 2, London, div.—*Harvey Meadows*, Warboys, Huntingdonshire, draper, June 4 at half-past 12, London, div.—*Ralph Lewis*, Penygroes, Tryddyn, Mold, Flintshire, wine merchant, June 5 at 11, Liverpool, div.—*Joseph Prescott*, Liverpool, tea dealer, June 4 at 11, Liverpool, div.—*Thos. Clubbe*, Chester, ale brewer, June 4 at 11, Liverpool, div.—*Samuel Boulton* and *John Swindells*, Greenfield Works, near Holywell, Flintshire, spelter manufacturers, June 5 at 11, Liverpool, div.—*Charles Phillips Edney* and *Alfred Rains*, Liverpool, druggists, June 5 at 11, Liverpool, div.—*John Alltree*, Liverpool, tailor, June 4 at 11, Liverpool, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

George James Wagstaff, Whitechapel-road, watchmaker, June 2 at half-past 11, London.—*Andrew Hind*, Pleasant-row, Pentonville, tea dealer, June 3 at half-past 12, London.—*Thomas Jones*, New Broad-street, City, and Backchurch-lane, St. George's-in-the-East, ale merchant, June 3 at 1, London.—*Richard Kemsley Day*, Bermondsey-street, Southwark, fuel manufacturer, June 2 at 2, London.—*John Dickson*, Fleet-street, London, and Swansea, Glamorganshire, builder, June 3 at 2, London.—*James Basnett*, Liverpool, optician, June 3 at 11, Liverpool.

To be granted, unless an appeal be duly entered.

Henry George Dearlove, Palace-row, New-road, timber merchant.—*James Beech Hill*, Blackfriars-road, Surrey, glass dealer.—*François Perrin*, Cleveland-street, Fitzroy-square, dealer in foreign woods.—*Wm. Brownsword Chorley*, Hart-street, Bloomsbury, Middlesex, and Cwmorthin, Festinog, Merionethshire, slate merchant.—*James Harper Gibbons*, Wood-street, Cheapside, straw-hat warehouseman.—*Stephen Towan*, Plymouth, currier.—*George Woodall*, Carlisle, Cumberland, grocer.—*John Weston*, Mottram-in-Longdendale, Cheshire, manufacturing chemist.—*I. Barker*, Scarborough, Yorkshire, draper.—*Simon Horsman*, Westgate, Bradford, Yorkshire, tea dealer.—*Robert Senior* and *Stephen Senior*, Staincliffe, Batley, Yorkshire, blanket manufacturers.—*Geo. Wood*, Loughborough, Leicestershire, wharfinger.—*Thomas King*, Spalding, Lincolnshire, licensed victualler.—*William Smith*, Mansfield, Nottinghamshire, licensed victualler.—*Robert Lee*, Cromford, Derbyshire, currier.—*Wm. Henry Broadhead* and *Wm. Hudson*, Nottingham, builders.

Petition Annulled.

Alexander Dalrymple, Lime-street, merchant.

Partnerships Dissolved.

Christopher Briggs, *Wm. Rothwell Jackson*, and *Arthur Bailey*, Bolton-le-Moors, Lancashire, attornies-at-law and solicitors.—*Henry Hawkes* and *Wm. Nicholas Bragg*, Okehampton, Devonshire, attornies and solicitors.

Scotch Sequestrations.

John Turnbull & Co., Edinburgh, woollen warehousemen.—*Alexander Strachan*, Kinross, wood merchant.—*Jas. Ferguson*, Glasgow, grain merchant.—*David Thomson*, Milnathort, Orwell, Kinross-shire, cabinet maker.

The transportation and penal servitude bill has been read a second time. It proposes to abolish altogether sentences of transportation, but to empower the Government to send out of this country convicts sentenced to penal servitude after they have undergone a preliminary portion of their punishment in separate imprisonment and in associated labour. Sentences of penal servitude are to be co-extensive in duration with those sentences of transportation for which they are substituted, and they may also be for periods below seven years, the minimum period of transportation. The bill leaves untouched the law relating to tickets of leave.

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Cartridge Envelopes for Drafts, Briefs, and Deeds.			
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LONDON, MAY 23, 1857.

THERE is no head of equity jurisprudence of perhaps greater importance than that which compels a person actually to do that which he has contracted and is consequently morally bound to do, thereby correcting the deficiency of the common law, according to which it is optional with a person who has entered into a contract whether he will perform it or not, if he be willing to stand the risk of being compelled to pay damages for its non-performance—a remedy which in many cases is necessarily very inadequate.

In a recent case the Court appears to have been rather inclined to contract the jurisdiction of equity, as we think, without sufficient reason, and to leave parties to the inadequate remedies of common law. The case alluded to is that of *Clayton* v. *Illingworth*, (10 Hare, 451). There the plaintiff entered into an agreement with the defendant's agent to take a messuage and thirty-eight acres of land, at the rent of 80*l.*, payable half-yearly, and to abide by the agreement in all respects as entered into by B., the late tenant; the *tenant to be at the expense of an agreement for letting;* not to sell off hay, &c.; the said tenant to satisfy the defendant that he was a person qualified and capable of managing the farm, and in other respects a likely tenant, or the memorandum to become void.

It does not appear from the report that the defendant had objected to the plaintiff as a person not qualified or capable of managing the farm, so as to render the memorandum void under the last clause contained in it. Sir W. P. Wood, V. C., observed that "the agreement expressed no term during which the tenancy was to continue, and inquired whether *there was any authority to shew that the Court would interpose to enforce the specific performance of an agreement for letting from year to year.*" It was argued by counsel for the plaintiff that a tenancy, commenced from year to year, frequently endured, by the mutual consent of the parties, for a long period, and it was therefore material that its terms should be carefully defined at the commencement: that this was provided for by the agreement, which stipulated that the formal instrument should be paid for by the tenant—a stipulation which necessarily implied that such an instrument must be executed by the tenant; and this execution it was the object of the suit to enforce—a relief which could not be obtained at law. His Honor, however, said "that he was not aware it was usual to have a lease under seal in the case of a yearly tenancy, and the reference to an agreement to be paid for by the tenant might be explained by the fact, that the present agreement was made with the agent of the lessor, and not with the lessor himself. Equity interposed to compel specific performance in cases where the legal remedy was inadequate; but in this case he did *not see why the remedy at law would not be sufficient.* An action might be brought upon the agreement, and the full terms of the agreement could be shewn by proving the former agreement with B., to which it referred, thereby importing that agreement into the agreement before the Court. In the absence of any authority for the interference of the Court in such a case, he must dismiss the claim."

Now, in the first place, the case seems to be in direct opposition to the case of *Fenner* v. *Hepburn*, (2 Y. & C. C. C. 159), where there was a memorandum of agreement very similar to that in the case now in question, except that the term for which the premises were agreed to be taken was for sixteen years; and it was there laid down by Sir J. L. Knight Bruce, L. J., (then Vice-Chancellor), that "whether the memorandum was or was not a present assignment, *yet if it appeared from the agreement that a further instrument was necessary to carry the intention of the parties into effect*, a Court of equity would not refuse relief to a party seeking its aid in that respect."

Now, in *Clayton* v. *Illingworth*, with great deference to the learned judge who decided it, we think that the clause, by which it was stipulated that the tenant was "to be at the expense of an agreement for letting," shews conclusively that the parties contemplated a further agreement, into which was to be imported the agreement of the former tenant; and as that agreement would almost necessarily not be in the possession of the plaintiff, his right to have discovery of it, and to have his agreement with the defendant made complete, by incorporating in it the former agreement, without leaving him to the uncertainty of obtaining discovery or production at law, ought of itself alone, we think, to have been a sufficient reason for granting him relief.

But another important question arises—was it intended by the learned judge to lay down as a general rule, that a Court of equity ought not to compel specific performance of an agreement to grant a tenancy from year to year? If so, it seems difficult to perceive upon what grounds his decision can be reconciled with the principles upon which the Court professes to act in questions arising under this peculiar head of its jurisdiction. Now, the mere absence of any authority to shew that the Court has interposed to enforce specific performance of an agreement for letting from year to year is no valid reason for refusing relief, if the principles upon which it ordinarily acts in such cases are applicable, any more than it would be if the Court were to refuse to decree specific performance of an agreement for a lease for twenty-two years and a half, merely because a case could not be found in which specific performance had been decreed of an agreement to let land for precisely that period. If it had been an agreement to let the farm for two or three years, would not the Court have compelled specific performance? And if so, why not for a year? Where is the line to be drawn? Is the Court to refuse to interpose to compel specific performance of an agreement to grant a lease for a year, a year and a half, a year and three quarters, but enforce it when it exceeds that or some other period? It is clear, that if there were a mere agreement for a tenancy at will, it would be futile for the Court to interfere, as the tenancy might be instantly determined; but this reason is not applicable where there is an agreement for a term, however short.

As tenancies from year to year are very numerous throughout this country, the decision is of much more importance than it might at first sight appear to be: it in effect gives a landed proprietor the option of saying to a person to whom he has let a farm from year to year, "Get what damages you can at law: I will not do what I have agreed to do." Lord Coke, wedded as he naturally was to the common law, and thinking it the perfection of reason, thought damages an adequate remedy for non-performance of a covenant to grant a lease; and in the case of *Bromage* v. *Genning* (1 Roll. Rep. 354, 368) he said, that "without doubt a Court of equity ought not to enforce the making of a lease; for if it might, to what purpose was the action upon the case, or of covenant? That to do so would subvert the intent of the covenantor, who meant to have an election either to pay damages or make a lease; whereas this was to compel him to make a lease against his will." The decision in that case had no effect in staying the jurisdiction in equity; and the reasons for it were characterised by Lord Erskine, when Chancellor, to be "the most untenable, preposterous, and unjust." (See *Halsey* v. *Grant*, 13 Ves. 76). And certainly it does seem to be repugnant to natural justice and common sense, in any case where a person may have either contracted to sell, lease, or deliver up specific property of any kind, that he should have the option, or that it should be presumed that he intended, when he entered into the contract, to retain the option, of annulling it upon payment of damages, if recovered against him in a court of law.

To say that the remedy at law is sufficient appears to be begging the whole question. Suppose, for instance, a tenant, about to leave a large farm, agrees to take another farm as tenant from year to year, and the landlord refuses to perform the agreement, the consequence is, that the tenant, not being able to take another, is compelled to sell all his stock, perhaps of a kind not admitting of valuation, and to which the pretium affectio is applicable, can it be said that it is right to leave him to the mere legal remedy of obtaining damages from a jury, rather than that the Court of Chancery should give him the very thing which he contracted for?

It seems to us, in the case in question, that certainly, so long as the tenancy from year to year continued undetermined by a valid notice to quit, the tenant was entitled to a decree for specific performance; nor ought he to have been disentitled to relief even by the determination of the tenancy by notice or otherwise, (inasmuch as he had contracted for a further agreement), if the neglect or the refusal of the landlord to execute it might throw obstacles in his way in an application for damages at law.

◆

THE case of *Bremer* v. *Freeman and Another*, decided by the Judicial Committee of Privy Council on the 9th inst., involves several interesting points on the conflict of international law. The question was, whether a will made by a Madame Calcraft or Allegri was valid. This depended upon two other questions, whether she was domiciled in France at the time of her death; and if so, whether her will, made there according to the English law, could be supported? The testatrix was the daughter of an officer in the East India Company's service, and was born in the East Indies in 1795. She had, therefore, an Anglo-Indian domicil of origin. General Calcraft, her father, returned to England, with her and her sister and mother, in 1806. The deceased resided with him as part of his family until 1825, and her domicil then was English. About that time she left her father and travelled abroad, and went into Italy. Her father died in 1834, and her sister then joined her, and travelled also in Italy until 1838, when both sisters removed to Paris, and lived together in lodgings until the death of the sister in September,

1840. She renewed from time to time the lease of her apartments for short terms of years, furnished them herself, and died in them in 1853, without ever having quitted Paris. She had declared on several occasions that she would never return to England, and that she wished to be buried near her sister in the cemetery of Père la Chaise. It was alleged that she had been secretly married while in Italy, but the proof of this was held to be too slight to raise any question of her having acquired the domicil of her husband. The Court held, under these circumstances, that the testatrix was domiciled at Paris at the time of her death, and that, in opposition to the above facts, it was of little weight that her fortune was invested chiefly in the English funds, that her will was made in the English form, and that she had not procured an authorisation from the French Government to fix her domicil in France, according to article 13 of the Code Civil, whereby it is declared that "the foreigner who shall have been admitted by authorisation of the Emperor to establish his domicil in France shall enjoy there all civil rights, so long as he shall continue to reside there." The Court held, that, for the purpose of having a domicil which would regulate succession, it was not necessary to have any authorisation of the Emperor.

It was then incumbent on the party who sought to uphold the will to shew, that although in the English form, it was sanctioned by the municipal law of France. Upon this point there was conflicting evidence of experts, decisions, and text-books; but the Court arrived at the conclusion that the will in that form was not allowed by the law of France.

With reference to the witnesses, the Court said, "It is to be lamented that from the very nature of the case we cannot satisfy ourselves, by the personal examinations of those witnesses, as to the weight due to each of them; and a proper sense of professional delicacy precludes them from giving evidence as to the merits of each other. We are compelled, therefore, to decide the disputed questions with inadequate means of judging of their professional eminence, their skill and knowledge. It is to be remarked, speaking with all respect to those gentlemen, that the rule of international law which all English lawyers consider as now firmly established—namely, that the form and solemnities of the testament must be governed by the law of the domicil of the deceased—does not appear to be recognised, or at least borne in mind, by any of them. . . . . Of the five experts examined for the respondents, three think that the will, either in the form required by the law of the domicil of origin or the place where the party dwells, is valid—a position which, by English lawyers, is certainly now considered to be exploded since the case of *Stanley* v. *Bernes*, (3 Hagg. Eccl. Rep. 373). The whole of these five experts give their opinion that Madame Allegri never was domiciled de facto, according to the law of nations, in France, upon the facts stated in the case. In that respect the Court have already intimated that they entertain a contrary opinion; and that circumstance, although it is quite consistent with their being right in their opinion of the law, a little diminishes the reliance to be put upon it."

The decided cases were hardly more satisfactory. "These decisions," said Lord Wensleydale, delivering the judgment of the Court, "are not treated with the same respect, and are not of so much authority in France, as the decisions of English Courts are in England. By one gentleman there is said to be an adage, that 'the decrees are good for those who obtain them;' and it is said that considerations of equity prevail too often in the decisions of the French Courts, and that they often vary." In order to avoid the doubts and difficulties which arose in this case from the different opinions laid before the Court—quot homines, tot sententiæ—it has been suggested that on such occasions a direct application should be made to the highest French Court of civil judicature for information upon the subject. It is well worthy of consideration whether facilities may not be afforded by the comity of nations for the settlement of these questions, which belong rather to the jus gentium than to merely municipal law.

THE TRANSMISSION OF POWERS.

(*From a Correspondent*).

A MORE liberal rule for construing powers appears to have been adopted by the Lords Justices in the cases of *Miller* v. *Priddon*, (1 De G., Mac., & G. 335), *Saloway* v. *Strawbridge*, (1 Jur., N. S., part 1, p. 1194), and *Brassey* v. *Chalmers*, (4 De G., Mac., & G. 528), than prevailed in the well-known case of *Cooke* v. *Crawford*, (13 Sim. 91); and it is deserving of consideration whether the cases of *Wilson* v. *Bennett*, (20 L. J., Ch., 279; 21 L. J., Ch., 741; 16 Jur., part 1, p. 966; 5 De G. & S. 475), *Macdonald* v. *Walker*, (14 Beav. 556), *In re Burtt's Estate*, (1 Drew. 319), and *Warburton* v. *Sandys*, (14 Sim. 631), will now be followed, even as between vendor and purchaser.

In *Macdonald* v. *Walker* the Master of the Rolls adverted to the great inconvenience of the doctrine of *Cooke* v. *Crawford*, when drawn to its full extent, his Honor stating that that decision involved the consequence, that if a power was to be exercised by the heir of a trustee, and the heir happened to be also the devisee (since the new Wills Act) of his ancestor's trust estates, the power was gone; and he intimated doubts whether, in a case impeaching a sale made under a power and circumstances like those before him, *Cooke* v. *Crawford* would not be overruled.

It is not uninteresting to observe, that the learned judge who decided *Cooke* v. *Crawford* maintained, when *Miller* v. *Priddon* was before him, (see 18 L. J., Ch., 226), views opposed to those which the Master of the Rolls in *Macdonald* v. *Walker*, and the late Sir J. Parker, V. C., in *Wilson* v. *Bennett*, (see 21 L. J., Ch., 741), held to be necessary deductions from the decision in *Cooke* v. *Crawford*. This case and that of *Warburton* v. *Sandys* are frequently quoted as authorities, that when land is devised, and a power of sale limited to a trustee and his heirs, and that trustee devises to his own executors the legal estate, to be held upon the same trusts as he held them, the power and the estate are separated, and the trustees, heir, and devisees are incompetent, together or separately, to execute the power; and that a person is no trustee until he be clothed with the trust estate. Now, in *Miller* v. *Priddon*, the Vice-Chancellor of England held that Cooke was well appointed a trustee; and though the copyholds had not been conveyed to him, and the freeholds were vested in him jointly with Holmes, (who seems not to have been considered a well-appointed trustee), his Honor decided that Cooke could exercise the power of sale, and that the attempted association of Holmes with him in the trusteeship presented no obstacle.

Plainly, the power and the estate had here been separated, and as neither Cooke nor Holmes was ever seised of the copyholds, his Honor did not (as Mr. Sweet infers, 11 Jarm. & Byth. 903, 3rd ed.) conceive it essential, that to make them complete trustees they should obtain the legal estate in the *whole* trust property.

To some extent the decision of the Court of Appeal in *Miller* v. *Priddon* authorises the position, that the donee of a power does not the less effectually execute it by assuming to do so in conjunction with strangers to the power; for as, in their Lordships' view, Cooke was a well-appointed trustee, it seems clear that he, and not the executor of the deceased trustee, should have appointed Holmes new trustee; yet Cooke's acquiescence in an appointment of himself and Holmes to be trustees was construed an effectual appointment by Cooke of Holmes to be an additional trustee.

In *Wilson* v. *Bennett*, as appears by the reports in 5 De G. & S. 475, and 21 L. J., Ch., 741, and also in *Macdonald* v. *Walker*, real and personal estates were devised to trustees, and powers of sale given to them, and the survivor of them, and the heirs, executors, and administrators of the survivor. The surviving trustee devised the trust estates to his own heir and two others, whom he also appointed executors; but because the heir was not alone seised of the trust estate, it was held that titles depending upon the exercise by him and his co-executors and devisees (or even, according to the late Sir J. Parker's dictum in *Wilson* v. *Bennett*, by the heir alone) of the power of sale were not sufficiently free from doubt to be forced upon purchasers.

In *Brassey* v. *Chalmers* the testator had devised real estate to Ravenscroft and Fisher, their heirs and assigns, and had given a power of sale to his executors, with the consent of his trustees for the time being. By this expression he could hardly be considered to have intended the persons in whom the legal estate should be vested from time to time, but rather the individuals to whom he had originally devised the estates upon trust; yet the Court of Appeal held new trustees appointed under the Trustee Act, 1850, and in whom the estates were vested by an order under that act, to be competent to consent to the exercise of this power of sale.

In *Saloway* v. *Strawbridge* power to sell real estate was given to a mortgagee, his heirs, executors, administrators, and assigns; the mortgage was transferred, and the transferee dying, his heir conveyed the legal estate to a trustee for the personal representative for the time being; the latter exercised the power of sale, and specific performance of the contract was decreed. The purchaser's difficulty would seem to have been occasioned by the separation of the right to the money and the legal estate; and it might have been said that the personal representative of the transferee was neither the heir, executor, administrator, nor assign of the original mortgagee, as intended by the power.

The tone, however, of that decision, and of those in *Miller* v. *Priddon* and *Brassey* v. *Chalmers*, will probably relieve the Courts in future cases from the lack of authority which compelled the Master of the Rolls to arrive at the conclusion he did in *Macdonald* v. *Walker*.

W.

Court Papers.

EQUITY SITTINGS, TRINITY TERM, 1857.

Court of Chancery.

Before the Lord Chancellor.

At Lincoln's Inn.

Friday	*May* 22	Appeal Motions and Appeals.
Saturday	23	Petitions and Appeals.
Monday	25	Appeals.
Tuesday	26	
Wednesday	27	
Thursday	28	Appeal Motions and Appeals.
Friday	29	Appeals.
Saturday	30	
Monday	*June* 1	
Tuesday	2	
Wednesday	3	
Thursday	4	Appeal Motions and Appeals.
Friday	5	Appeals.
Saturday	6	
Monday	8	
Tuesday	9	
Wednesday	10	Petitions and Appeals.
Thursday	11	Appeals.
Friday	12	Appeal Motions and Appeals.

Notice.—Such days as his Lordship is hearing Appeals in the House of Lords excepted.

Before the Lords Justices.

At Lincoln's Inn.

Friday	*May* 22	Appeal Motions and Appeals.
Saturday	23	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Monday	25	Appeals.
Tuesday	26	
Wednesday	27	
Thursday	28	Appeal Motions and Appeals.
Friday	29	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday	30	Appeals.
Monday	*June* 1	
Tuesday	2	
Wednesday	3	
Thursday	4	Appeal Motions and Appeals.
Friday	5	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday	6	Appeals.
Monday	8	
Tuesday	9	
Wednesday	10	
Thursday	11	
Friday	12	Appeal Motions and Appeals.

Before the Right Hon. the Master of the Rolls.

At Chancery-lane.

Friday	*May* 22	Motions.
Saturday	23	General Petition-day.
Monday	25	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	26	
Wednesday	27	
Thursday	28	Motions.
Friday	29	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Saturday	30	
Monday	*June* 1	
Tuesday	2	
Wednesday	3	
Thursday	4	Motions.
Friday	5	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Saturday	6	
Monday	8	
Tuesday	9	
Wednesday	10	

Thursday	11	General Petition-day.
Friday	12	Motions.

Short Causes, Short Claims, Consent Causes, Unopposed Petitions, and Claims every Saturday; the Unopposed Petitions to be taken first.

Notice.—Consent Petitions must be presented, and copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard.

Before Vice-Chancellor Sir RICHARD T. KINDERSLEY.

At Lincoln's Inn.

Friday	*May* 22	Motions and General Paper.
Saturday	23	Petitions (unopposed first), then Short Causes and Short Claims, and then Remaining Petitions.
Monday	25	Pleas, Demurrers, Exceptions, Causes, Claims, Further Directions, and Further Considerations.
Tuesday	26	
Wednesday	27	
Thursday	28	Motions and General Paper.
Friday	29	Petitions (unopposed first).
Saturday	30	Short Causes, Short Claims, and General Paper.
Monday	*June* 1	Pleas, Demurrers, Exceptions, Causes, Claims, Further Directions, and Further Considerations.
Tuesday	2	
Wednesday	3	
Thursday	4	Motions and General Paper.
Friday	5	Petitions (unopposed first).
Saturday	6	Short Causes, Short Claims, and General Paper.
Monday	8	Pleas, Demurrers, Exceptions, Causes, Claims, Further Directions, and Further Considerations.
Tuesday	9	
Wednesday	10	
Thursday	11	
Friday	12	Motions and General Paper.

Before Vice-Chancellor Sir J. STUART.

At Lincoln's Inn.

Friday	*May* 22	Motions.
Saturday	23	Short Causes, Claims, and Petitions.
Monday	25	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	26	
Wednesday	27	
Thursday	28	Motions and General Paper.
Friday	29	Petitions and General Paper.
Saturday	30	Short Causes and Claims, and General Paper.
Monday	*June* 1	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	2	
Wednesday	3	
Thursday	4	Motions and General Paper.
Friday	5	Petitions and General Paper.
Saturday	6	Short Causes and Claims, and General Paper.
Monday	8	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	9	
Wednesday	10	
Thursday	11	
Friday	12	Motions.

Before Vice-Chancellor Sir W. P. WOOD.

At Lincoln's Inn.

Friday	*May* 22	Motions and General Paper.
Saturday	23	Petitions, Short Causes, and Claims, and General Paper.
Monday	25	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	26	
Wednesday	27	
Thursday	28	Motions and General Paper.
Friday	29	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Saturday	30	Petitions, Short Causes, and Claims, and General Paper.
Monday	*June* 1	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	2	
Wednesday	3	
Thursday	4	Motions and General Paper.
Friday	5	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Saturday	6	Petitions, Short Causes, and Claims, and General Paper.
Monday	8	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Tuesday	9	
Wednesday	10	
Thursday	11	
Friday	12	Motions and General Paper.

Notice.—Claims will be taken in precedence of the General Paper every Petition-day.

EQUITY CAUSE LISTS, TRINITY TERM, 1857.

⁎ The following abbreviations have been adopted to abridge the space the Cause Papers would otherwise have occupied:—*A.* Abated—*Adj.* Adjourned—*A. T.* After Term—*Ap.* Appeal—*C. D.* Cause Day—*Cl.* Claim—*C.* Costs—*D.* Demurrer—*E.* Exceptions—*F. D.* Further Directions—*M.* Motion—*P. C.* Pro Confesso—*Pl.* Plea—*Ptn.* Petition—*R.* Rehearing—*S. O.* Stand Over—*Sh.* Short.

Before the LORDS JUSTICES.

APPEALS.

Nunn v. Edge (Part heard)
Campbell v. Ingilby
Perkins v. Green
In re Green
Green v. Green
Bellamy v. Sabine (5)
Davey v. Durrant
Davey v. Durrant
Smith v. Durrant (App. M)
Smith v. Durrant (M for decree)
Castle v. Castle
Castle v. Castle
Denton v. Donner.

Before the Right Hon. the MASTER OF THE ROLLS.

CAUSES, &c.

Fowler v. Wyatt (Cause, part heard)
Isaacs v. Homfray (E to ans.)
James v. Gibbon (4) (F D, C)
Packman v. Vivian (Cause)
Noble v. Brett, otherwise Hodges (M for decree)
O'Hara v. Vile (M for decree)
Jeffery v. Orbley (Cause)
Swift v. Swift (Cause)
Moreland v. Richardson (M for decree)
Douglas v. Archbutt (Cause)
Att.-Gen. v. Prettyman
Att.-Gen. v. Dean, &c. of Lincoln (E to rep.)
Att.-Gen. v. Prettyman
Att.-Gen. v. Dean, &c. of Lincoln (F D, C)
Att.-Gen. v. Prettyman
Att.-Gen. v. Bishop of Lincoln (F D, C)
Granger v. Powers (M for dec.)
Nicholson v. Gunn (M for decree)
Hall v. Giles (M for decree)
Stidolph v. Dickinson (M for decree)
Vincent v. Spicer (Further consideration, Summons, adjourned from chambers)
Dixon v. Dixon (M for decree)
Cattlow v. Daniel (M for dec.)
Randall v. Daniell (M for decree)
Freeman v. Stokes (Further consideration) *Sh*
In re Sarah Yeomans
Yeomans v. Haynes (Further consideration, adjourned from chambers)
Longstaff v. Barker (Cause)
Gascoyne v. Ellis (M for dec.)
Cowlishaw v. Hardy (Further consideration)
Bridges v. Longman (Further consideration, 2 summons, adjourned from chambers)
In re Moore
Moore v. Moore (Further considerat., adj. from chambers)
Cotesworth v. M'Gachen (M for decree)
Marriott v. Reynolds (M for decree)
Sherwood v. Grice (Furthet consideration)
Baldwin v. Cronin (M for decree)
Anderson v. Anderson (M for decree)
Anderson v. Anderson (M for decree)
Tugwell v. Scott (Cause)
Hawksworth v. Hawksworth (Cause)
Priestman v. Tindall (Further consideration, Summons, adjourned from chambers)
In re Graham, deceased
Graham v. Graham (Further consideration, adj. from cham , Ptn)
Close v. Gordon (Further consideration)
Moor v. Abbott (M for decree)
Collett v. Collett (M for dec.)
Collett v. Dixon (M for dec.)
Dempster v. Graham (M for decree)
Lacy v. Read (M for decree)
Ridley v. Tiplady (Further consideration)
Owens v. Kirby (M for dec.)
Page v. Page (Cause)

In re Hale
Webster v. O'Connor } (Fur. cons.)
Norris v. Bramble (Further consideration)
Chorley v. Bellett (M for dec.)
Addams v. Bellett (Further consideration)
Noble v. Brett (Further cons.)
Bromer v. Lambe (Further consideration)
Higgins v. Pettman (Further consideration)
Barton v. Terrell (E to Master's report)
Barnewall v. Lord Clifford (Further consideration)
Cubitt v. Sturgis (Cause)
Violett v. Brookman (Further consideration)
Sparling v. Bennett (Further consideration, Summons to vary certificate)
Stephens v. Breton (Cause)
Att.-Gen. v. Bushby (Cause)
Brooks v. Dingley (M for dec.)
Jones v. Jones (Cause)
Perry Herrick v. Attwood (Cause)
Holmes v. Baldwin (Cause)
Stevenson v. Beaumont (M for decree)
Fletcher v. Barnard (Further consideration)
Nesbit v. Huxham (M for decree)
Pearce v. Spencer (Cause)
De Sorbein v. Bland (Further consideration)
Hoblyn v. Grose (M for dec.)
Hartley v. Ostler (Further consideration)
Robins v. Robins (M for dec.)
Wich v. Parker (Cause)
Bone v. Pollard (Further consideration)
Holiwell v. Holgate (Further consideration)
Spencer v. Pearson (M for decree)
Pearson v. Tulk (Cause)
Pearson v. Spencer (Cause)
Pearson v. Pearson (Cause)
Edwards v. Rowe
Bennion v. Edwards } (Furth. cons.)
Holland v. Allsop (M for dec.)
Fry v. Fry (M for decree)
Wynne v. Fletcher (Sp. case)
Preston v. Bowerman (Cause)
Flower v. Gedye (Further consideration, C)
Bather v. Kearsley (F D, C)
In re Pollard
Polkey v. Langham } (Summons, adj. from chambers)
In re Mackinlay
Ward v. Mackinlay } (Sum., Fur. cons., adj. from ch.)
Wallis v. Tonge (Further consideration)
Pearl v. Deacon (M for dec.)
Bridgman v. Gill (Cause)
Kerr v. Pawson (M for dec.)
Cowdell v. Varnon (M for dec.)
Armstrong v. Armstrong (Further consideration)
Osborn v. Reid (Further consideration)
Tinsley v. Gresley (M for dec.)
In re Stevens
Taylor v. Stevens } (Further consider.)
Bruce v. Toker (Further consideration)
Sharpe v. Cooper (Further consideration)
In re Miller
Miller v. Miller } (Further considerat., adj. from cham.) *Sh*
Smith v. Ryder (M for decree)
Dawson v. Prince (Cause)
Gillbanks v. Jackson (M for decree)
Wells v. Corporation of Gravesend (M for decree)
Clarke v. Bailey (Further consideration, Ptn)
Croft v. Goldsmid (Cause)
Rackham v. Gilbert (Further consideration)
Barker v. Partridge (M for decree)
Hoblyn v. Langley (Further consideration)
Ruxton v. Poingdestre (Further consideration)
Tufnell v. Tufnell (M for dec.)
Caswall v. Saunders (M for decree).

Before Vice-Chancellor Sir Richard T. Kindersley.

Causes, &c.

Potter v. Wallace (Cause)
Lamb v. Lamb (M for decree)
Barnes v. Taylor (Cause)
Gregory v. Pilkington (5) (F D, C)
Peacock v. Shrubb (Further consideration)
Sibley v. Minton (M for decree)
Wentworth v. Chevell (F D, C)
Atkinson v. Kelly (M for decree)
Clayton v. Newport (Further consideration)
Appleyard v. Walker (C) *Sh*
Garner v. Briggs (Cause)
Barkworth v. Young (M for decree)
Balkin v. Brown (M for dec.)
Gibbs v. Manning (Further consideration)
Att.-Gen. v. Sheppard (Further consideration)
Wilkinson v. East (Cl)
Fowler v. Fowler (Further consideration)
Wilcox v. Harrop (Further consideration)
Parton v. Parton (Cause)
Sclater v. Cottam (Further consideration)
Evans v. Jones (Further consideration)
Manby v. Colegrave (Cause, Ptn) *Sh*
Randfield v. Randfield (Cause)
Kirkpatrick v. Fletcher (Cau.) *Sh*
Thomas v. Jones
Silvester v. Thomas } (Further consid.)
Freeman v. Whitbread (Further consideration)
Kennedy v. Glover
Kennedy v. Glover
Kennedy v. Glover } (Further consideration)
Gimson v. Downing (Cause)
Addison v. Mayne (M for decree).

Before Vice-Chancellor Sir J. Stuart.

Causes, &c.

Simpson v. Chapman (Further consideration, M)
Dean v. Hall (6) (F D, C)
Booth v. Coulton (Further consideration)
Booth v. Alington (3) (Further consideration)
Jowett v. Bentley (Cause, part heard)
Robson v. Earl of Devon (Ca.)
Baker v. Ellis (M for decree)
Holden v. Holden
Hill v. Dolphin } (Cause, Ptn)
Newry and Enniskillen Railway Co. v. Spackman (Ca.)
King v. King (M for decree)
Wright v. Sandars (Cause)
Lane v. Ansell (Cause)
Spong v. Straight (Cause)
Nelson v. Booth (M for dec.)
Barnes v. Jay (F D, C)
Napper v. Dendy (Further consideration, Summons)
Webster v. Webster (Cause)
Prudence v. Sutton (M for decree)
Hodson v. Roberts (M for decree)
Halliley v. Henderson (M for decree)
Griffin v. Watts (M for dec.)
Tanner v. Barton (M for dec.)
Scott v. Mayor of Liverpool (Cause)
Gooch v. Slater (Cause)
Forsyth v. Inglis (Cause)
Hartley v. Whorlay (M for decree)
Jesse v. Bennett (M for dec.)
Wood v. Scarbrough (2) (Further consideration)
Horne v. Shepherd (2) (F D, C)
Charlton v. Elgar (Further consideration)
Horne v. Warr (Further consideration, Ptn)
Jones v. Vaughan (Cause)
Mesher v. Lane (Further consideration)
Blackmore v. Blackmore (Ca.)
Sayer v. Bevan (M for decree)
Backhouse v. Wylde
Backhouse v. Sturgis } (Fur. cons.)
Raiker v. Pike (M for decree)
Le Clair v. Richards (M for decree)
Hobson v. Searle (Cl)
Beloe v. Brame (Cause)
Viscount Ranelagh v. Lithgow (Cl)
Stone v. Stone (Cause)
In re Hemsley's Estate
Bostock v. Wildbore } (Further considerat. from chambers)
Thomas v. Phillips (2) (F D, C)
Osborn v. Walker (Cause)
Lansdell v. Luck (Adj. sum.)
Bowes v. Goslett (M for dec.)
Haywood v. Appleton (Further consideration) *Sh*
Stokes v. Crompton (Further consideration)
Dendy v. Bagshaw (Cause)
Heath v. Dodman (M for dec.)
Winstone v. Baroness Windsor (M for decree)
Weldon v. Hylton (M for dec.)
Weldon v. Youard
Weldon v. Fletcher } (F D, C)
Searle v. Smales (Further consideration)
In re Hierons's Estate
Courage v. Hierons } (Further considerat. from chambers, Ptn)
Johnson v. Lawrence (M for decree)
Foster v. Cantley (Further consideration)
In re Canning's Estate
Wallis v. Bell } (Fur. con.)
Mackintosh v. Great Western Railway Co. (Adj. sum.)
Eyre v. Barrow (M for decree)
Thackwell v. Macefield (M for decree)
Naylor v. Wright (Cause)
Skelton v. Cole (M for decree)
Woodburne v. Woodburne (Further consideration)
Wakefield v. Jones (Further consideration)
Trapand v. Trapand (M for decree) *Sh*
Markham v. Stimpson (M for decree)
Farebrother v. Gibson (Cause)
Stonehouse v. Dobing (F D, C)
Evans v. Richards
Jones v. Richards } (Further consid.)
Beech v. Viscount St. Vincent (M for decree)
Woodward v. Woodward (M for decree)
Helmer v. Addison (Cause).

Before Vice-Chancellor Sir W. P. Wood.

Causes, &c.

Stansfeld v. Williams (Cause, part heard)
Joel v. Mills (M for decree, part heard)
De la Rue v. Dickinson (E to answer)
Willoughby v. Chamberlaine (D)
Bailey v. Judd (D)
Rigg v. Rigg (M for decree)
Matthews v. Amlott (Further consideration)
Fasana v. Riccucci (Further consideration)
Thomas v. Thomas (Further consideration)
Parker v. Phillips (Further consideration).

Langdale v. Whitfield (M for decree)
Couchman v. Dennett (Further consideration)
Rushout v. Turner (M for decree)
Thornton v. Stevenson (Cau.)
Clarke v. Ronald (Cause)
Janes v. Page } (Cause)
Mingay v. Page } *June* 8
Monypenny v. Monypenny (Further consideration)
Holland v. Johnson (M for decree) *June* 12
Bennett v. Adamson, (M for decree)
Roberts v. Pollard (M for decree)
Pollard v. Wilson (M for dec.)
Taylor v. Hopkins (Cause)
Fowler v. Pierce (M for dec.)
Foster v. Foster (M for dec.)
Hounsell v. Edwards (Cause)
Mumford v. Little (M for decree)
Bosville v. Lord Middleton (M for decree)
Tovell v. Eastern Union Railway Co. (M for decree)
Company of Proprietors of the Leominster Canal Navigation v. Shrewsbury & Hereford Railway Co. (M for decree)
Browne v. London Necropolis & National Mausoleum Co. (M for decree)
Bolden v. Ricoly (Cause)
Webb v. Hewett (M for dec.)
Amiss v. Hall (Further cons.)
Startin v. Packover (M for decree)
Carey v. Carey (Further consideration)
Cockram v. Rogers } (Cause)
Cockram v. Rogers }
Dugdale v. Robertson (M for decree)
Baker v. Armitage (M for decree)
East Anglian Railway Co. v. Goodwin (Cause)
Hounsell v. Edwards (M for decree)
Whitham v. Whitham (Cause)
Smith v. Long (Further hearing on equity reserved)
Fisher v. Coffey (Cause)
Bell v. Adams (Further consideration, M to vary certif.)
Grigg v. Carr (M for decree)
Robins v. Pearse (M for dec.)
Howell v. Charles (Cause)
Forbes v. Forbes (Cause)
London & Blackwall Railway Co. v. Board of Works for Limehouse District (Cause)
Lovett v. Lovett } (Fur. con.,
Lovett v. Wallis } eq. reserv.)
Potts v. Potts (M for decree)
Marsh v. Means (M for dec.)
Smith v. Lord Dacre (M for decree)
Holmes v. Eastern Counties Railway Co. (M for decree)
Johnson v. Hollingsworth (M for decree)
Garrett v. Kennedy (Further consideration)
Browne v. Green (Cl)
Hall v. Burt (Cause)
Brooke v. Garrod (M for decree)
Mills v. Hunt (Cl)
Whateley v. Spooner (M for decree)
Tomlinson v. Harnew (Cause)
Salisbury v. Denton (M for decree)
Hodsoll v. Bird (Cause)
Churchward v. Jackson (Further consideration)
Atkinson v. Atkinson (M for decree)
Preece v. Seale (Cause)
Davison v. Robinson (Cause)
Kennedy v. Sedgwick (M for decree)
Shribley v. Lambert } (Furth.
Shribley v. Lambert } cons.)
Cummins v. Bromfield (Further consideration)
Harris v. Smith (Cause)
Carter v. Carter (Further consideration)
Owen v. Hotham (Further consideration)
Spicer v. Fox (Special case)
Claydon v. Finch (Further consideration)
Calvert v. Johnson (Sp. case)
Goodman v. Sherwood (Further consideration)
Sympsons v. Prothero (M for decree)
Toynbee v. Duckering (Further consideration)
Snelgar v. Chambers (M for decree)
Addenbrooke v. Ormes } (Fur.
Addenbrooke v. Ormes } con.)
Squire v. Turner (Cl)
Marshall v. Jones (Cause)
Hervey v. Mills (M for decree)
Chambers v. Flood (M for decree).

◆

COMMON-LAW CAUSE LISTS, TRINITY TERM, 1857.

Court of Queen's Bench.

NEW TRIALS.

REMAINING UNDETERMINED AT THE END OF THE SITTINGS AFTER EASTER TERM, 1857.

FOR JUDGMENT.

Lond.—Wheelton v. Hardisty

FOR ARGUMENT.

Lond.—Bovill v. Keyworth (to be further argued on the 2nd day of term)

Moved Mich. Term, 1856.

Tried during Term.

Midd.—Fisher v. Jordan

Moved Easter Term, 1857.

Midd.—Milburn v. Cotterell
Lond.—Schuster v. M'Kellar
Lond.—De la Rue v. Dickinson (3rd day of term)
„ Birch v. Jury
„ Hartley v. Ponsonby
„ Summers v. Solomon
North'land—Parker v. Winlo
„ Stokoe & an. v. Singers
„ Heald v. Pickersgill
York—Sharpe & an. v. Waterhouse & an.
„ Dixon v. Holroyd
„ North-eastern Railway Co. v. North
„ Houldsworth & ors. v. Morley
Liv'pool—Charles v. National Guardian Assurance Society
„ Mavrogordato v. Hindson
Som'set—Davies v. Morland
Essex—Wigfield v. Shield
Sussex—Stedman v. Smith
Stafford—Baggaley v. Davy
Glo'ster—Roux v. Cardinal Wiseman
„ Packer v. Winterbotham
Pembroke—Mathias v. Evans

Tried during Term.

Lond.—Simons v. Fisher
Midd.—Tennant v. Field.

SPECIAL CASES.

FOR TRINITY TERM, 1857.

Those marked thus * are Special Cases, and thus † Demurrers.

FOR JUDGMENT.

†Trevelyan v. Richards

FOR ARGUMENT.

†Chamberlaine v. Willoughby (Stands for arrangement)
*Blackwell v. Wheatcroft
†Sharp & an. v. Waterhouse
*Metropolitan Board of Works v. Vauxhall-bridge Co.
†Gurdon v. Norden
*Aldridge v. Johnson
†Scott v. Taylor & an.
†Dixon v. Holroyd
*Howell v. London Dock Co.
*Clay v. Worms
†Reg. v. Eton College & an.
Jackson v. Courtenay (Award)
*Fraser v. Jordan
†Beaver v. Mayor, &c. Manchester
†Hodson v. Observer Life Assurance Society.

ENLARGED RULES

FOR TRINITY TERM, 1857.

First Day.

Traherne & an. v. Gardner
Reg. v. Inhabitants of Aberyskor
Same v. Surveyors of Horsforth
Same v. Lloyd
Reg. v. Cockburn
Same v. Conroy (To come on as a motion)

Fourth Day.

Same v. Justices of Gloucestershire.

APPEALS.

FOR JUDGMENT.

Esposito v. Bowden
Rowbotham v. Wilson

FOR ARGUMENT.

Pemberton v. Chapman
Collen v. Wright & ors.
Knowles v. Trafford & an.
Bowman v. Blyth
Vestry of the Parish of St. Pancras v. Morgan
Ingram v. Barnes
Seale v. Reg.
Alford & ors. v. Reg.
Reg. v. Overseers of Christchurch
Fitzmaurice v. Bayley
Lister & an. v. Leather.

CROWN PAPER, TRINITY TERM, 1857.

Oxfordshire .. Reg. v. Vice-Chancellor of the University of Oxford.
Hull .... —— Barkworth.
Herefordshire.. —— Pully.
Yorkshire .... —— Inhabitants of Huddersfield.
Birmingham .. —— Allday & ors., Overseers of Birmingham
Newcastle-upon Tyne ...... } —— Dickinson.
Staffordshire .. —— Lancashire.
Same .... —— Bakewell.
Same .... —— Craddock.
Same .... —— Credland.
Same .... —— Bacon.
Kent .... —— Mayor, &c. of Rochester.
Same .... —— Same.
Same .... —— Same.
Lancashire.... —— Overseers of the Poor of the Township of Manchester.
Notts .... —— Worksop Board of Health.

Court of Common Pleas.

NEW TRIALS.

Hilary Term, 1857.

Lond.—Wickens *v.* Steel
„ Michael *v.* Gillespie
Midd.—Patten *v.* Rea
„ Pound *v.* Dawson
„ Roberts *v.* Eberhardt

Easter Term, 1857.

Lond.—Simmonds *v.* Tayler
„ Simpson *v.* Accidental Death Insurance Co.
Liv'pool—Bellhouse *v.* Mayor of Manchester
Cambridge—Holmes *v.* Onion
Lond.—Rankin *v.* Payne
Liv'pool—Jones *v.* Provincial Insurance Co.
Lond.—Duff *v.* Mackenzie
Lond.—Cahill *v.* Dawson
„ Tuff *v.* Warman
„ Lindsay *v.* Robertson
„ Wood *v.* Layton
York—Delaney *v.* Fox
Lond.—Andrews *v.* Belfield
„ Last *v.* Edwards
Kent—Neyler *v.* Passfield
Northamp.—Lovell *v.* Smith
Midd.—Ling *v.* Croker
Chester—Sutton *v.* Sadler
Midd.—King *v.* Accumulative Life Fund Assurance Co.
„ Gauntlett *v.* King
Lond.—Laws *v.* Rand
Midd.—Horlor *v.* Carpenter
„ Mathews *v.* Feuillan.

DEMURRER PAPER.

Those marked thus † are Demurrers.

Friday...... *May*	22	Motions in arrest of judgment.
Saturday	23	
Tuesday	26	
Friday..........	29	Special arguments.

†Tobias *v.* Jarchow (To stand over till Esposito *v.* Bowden, in Exch. Ch., is disposed of)
Graham *v.* Hutchinson
Chesterton *v.* Bramley (County Court Appeal)
†Surr *v.* Lee
†Smith *v.* Mayor of Harwich
†Vestry of St. Pancras *v.* Batterbury
Barrick *v.* Buba
Emery *v.* Clark.

ENLARGED RULES.

First Day.
In re Corner
Moy *v.* Eastern Counties Railway Co.

Second Day.
Walker *v.* Bartlett
Wilton *v.* Whittaker (Until case in Chanc. disposed of).

CUR. ADV. VULT.

Fraser *v.* Hatton
Loder *v.* Kekule.
Florence *v.* Jenings
Jenings *v.* Florence
Tetley *v.* Easton
Cockerell *v.* Aucompte
Sheehy *v.* Professional Life Assurance Co.
Giles *v.* Spencer
Gorressen *v.* Perrin.

APPEALS.

Hickman *v.* Cox & an.
Same *v.* Same
Johnson *v.* Goslett & ors.

Court of Exchequer.

SITTINGS—TRINITY TERM, 1857.

Days in Term.		*Banc.*
Friday .... *May*	22	Motions and Peremptory Paper.
Saturday........	23	Errors, Peremptory Paper, & Motions.
Monday........	25	....
Tuesday........	26	....
Wednesday......	27	Special Paper.
Thursday	28	Circuits chosen.
Friday	29	....
Saturday	30	Criminal Appeals.
Monday .... *June*	1	Special Paper.
Tuesday........	2	....
Wednesday......	3	Special Paper.
Thursday	4	....
Friday	5	....
Saturday	6	....
Monday	8	Special Paper.
Tuesday	9	....
Wednesday......	10	....
Thursday	11	....
Friday	12	....

Days in Term.		*Nisi Prius.*
Monday...... *May*	25	Middlesex, first Sitting.
Friday	29	London, first Sitting.
Monday ...... *June*	1	Middlesex, second Sitting.
Friday	5	London, second Sitting.
Friday	8	Middlesex, third Sitting.

NEW TRIALS.

For Judgment.

Cambridge—Gelen *v.* Hall
„ Same *v.* Same
Guildford—Smith *v.* Winder
Midd.—Hills *v.* London Gaslight Co.
„ Lee *v.* Everest
„ Nixon *v.* Brownlow
Lond.—Wilson *v.* Hicks
„ Crouch *v.* Great Western Railway Co.

For Argument.

Lond.—Bovill *v.* Primm
„ Gibbs *v.* Charleton
„ Hand *v.* Wilson
„ Wyatt *v.* Detheck
Cambridge—Pidgeon *v.* Legge
York—Smith *v.* Render
Liv'pool—Preston *v.* Tamplin
„ Bramall *v.* Lees
Chester—Bushell *v.* Norman
Kingston—Andrews *v.* Hawley
„ Ellis *v.* London & South-western Railway Co.
Nottingham—Every *v.* Smith
Winchester—Tooker *v.* Smith
Exeter—Churchward *v.* Ford
Stafford—Beale *v.* Caddick
Shrewsbury—Vaughan *v.* Downes
Monmouth—Dalton *v.* Batchelor
" Chapman *v.* Monmouthsh. Railway and Canal Co.
" Jones *v.* Same
Glo'ster—Williams *v.* Smith
„ Hollis *v.* Marshall.

Moved after the 4th Day of Easter Term, 1857.

Lond.—Sedgwick *v.* Daniell.

SPECIAL PAPER.

For Judgment.

Oldershaw *v.* King
Hill *v.* Balls.

For Argument.

Doe *d.* Hughes *v.* Probert (Standing for arrangement)
Brewer *v.* Drimmack (Pt. hd., Standing for arrangement)
Churchward *v.* Foss (Stayed by injunction)
Barstow *v.* Reynolds
Barnes *v.* Hayward
Ellis *v.* London and South-western Railway Co. (To come on with the rule in New Trial Paper)
Walker *v.* Goe (To stand over until points in Exch. Cham. are disposed of)
Macnaught *v.* Mare (To stand over until issues in fact are disposed of)
Beattie *v.* Carmichael.

PEREMPTORY PAPER.

To be called on the first Day of Term after the Motions, and to be proceeded with the next Day, if necessary, before the Motions.

Evans *v.* Ernest (To set aside award)
Train *v.* Collier (To set aside plea)
Ricardo, App., Maidenhead Board of Health, Resps., (For a prohibition).

APPEALS.

For Judgment.

Muggleton *v.* Barnett.

For Argument.

Gibbs *v.* Trustees of the Liverpool Docks (Part heard)
Llewellyn *v.* Company of Proprietors of the Swansea Canal Navigation
Marriage *v.* Eastern Counties Railway Co. and London & Blackwall Railway Co.

Died, on the 18th inst., at Cottingham, after a short illness, William Ritson Dryden, Esq., solicitor, of Kingston-upon-Hull, aged 42.

worth Lodge, Coborn New-road, Bow, stationer.—*Henry W. Collison* the younger, Bath, provision merchant.—*Samuel H. Grieveson* and *Cuthbert R. Grieveson*, Sunderland, Durham, joiners.—*Robert Barwick*, Sunderland, Durham, shipowner.—*John Walker*, Blackburn, Lancashire, commission agent.—*Jesse Wilkinson*, Lindley, Huddersfield, Yorkshire, woollen-cloth manufacturer.

Petition Annulled.

Jas. Basse and *Solomon Linde*, Savage-gardens, Tower-hill, wine merchants.

Scotch Sequestrations.

John M'Master, Glasgow, draper.—*James Wood*, Edinburgh, merchant.—*Chas. Anderson*, Arbroath, manufacturer.

Tuesday, *May* 19.

Bankrupts.

SAMUEL PEACE WARD, Cheshunt, Hertfordshire, late of Ledbury-terrace, Westbourne-grove West, Bayswater, Middlesex, timber merchant, May 28 at 12, and June 26 at 11, London: Off Ass. Johnson; Sols. King & George, King-street, Cheapside.—Pet. f. May 12.

CHARLES MOODY, Portsea, saw and file maker, May 28 at half-past 11, and June 25 at 2, London: Off. Ass. Johnson; Sols. Maples & Co., Frederick-place, Old Jewry.—Pet. f. May 16.

THOMAS REGINALD KEMP and GEORGE CLAY, Nicholas-lane, Lombard-street, billbrokers, (trading under the style of Kemp, Clay, & Co.), May 30 at 11, and June 30 at 1, London: Off. Ass. Lee; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. May 16.

ALFRED ELLIS, Wimborne, Dorsetshire, wine merchant, May 30 at 12, and June 30 at 1, London: Off. Ass. Edwards; Sols. Taylor & Woodward, 28, Great James-street, Bedford-row.—Pet. f. April 30.

LEWIS LEWIS, Exmouth-street, Clerkenwell, draper, June 2 at 2, and June 30 at 12, London: Off. Ass. Edwards; Sol. Jones, 15, Sise-lane.—Pet. f. May 8.

SAMUEL MUNDAY, Gosport, Hampshire, baker, May 29 at 12, and July 3 at 1, London: Off. Ass. Whitmore; Sols. H. & R. W. Ford, Portsea; Low, 65, Chancery-lane.—Pet. f. May 16.

CHARLES WILLIAM HILL, Birmingham, anvil maker, June 1 and 22 at 10, Birmingham: Off. Ass. Christie; Sols. Hodgson & Allen, Birmingham.—Pet. d. May 15.

THOMAS BAILEY STEVENTON, Stoke-upon-Trent, Staffordshire, grocer, May 29 and June 19 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Stevenson, Stoke-upon-Trent; Hodgson & Allen, Birmingham.—Pet. d. May 15.

RICHARD TORRING, Plymouth, Devonshire, builder, May 25 at 10, and June 22 at 1, Plymouth: Off. Ass. Hirtzel; Sols. Edmonds & Sons, Plymouth.—Pet. f. May 18.

WILLIAM JOHN GREGORY, Leeds, bedding manufacturer, June 8 at 12, and July 6 at 11, Leeds: Off. Ass. Hope; Sols. Dibb & Co., and Markland, Leeds.—Pet. d. May 16.

GEORGE ATKINSON, Lincoln, commission agent, June 10 and July 8 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sol. Chambers, Lincoln.—Pet. d. May 13.

GEORGE WARD, Liverpool, licensed victualler, June 4 and 25 at 11, Liverpool: Off. Ass. Bird; Sols. Neal & Martin, Liverpool.—Pet. f. May 13.

JOHN HENRY BROWN the younger, Newcastle-upon-Tyne, commission merchant, May 29 at 11, and July 14 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hoyle, and Watson, Newcastle-upon-Tyne.—Pet. f. May 5.

Meetings.

Wm. Wenden, Great Bromley, Essex, cattle dealer, June 5 at 11, London, last ex.—*John Hunter*, Nottingham-place, Stepney, draper, June 9 at 11, London, aud. ac.—*J. Long*, Portsea, Southampton, rag merchant, May 26 at 12, London, aud. ac.—*Thos. Moslin*, Coburg-place, Old Kent-road, Surrey, carpenter, June 4 at 12, London, aud. ac.—*Jonathan Hanbury*, Matfield-green, Brenchley, Kent, grocer, June 1 at 11, London, aud. ac.; June 10 at 12, div.—*Wm. Tilbury*, Great Titchfield-street, Marylebone, and Cleveland-mews, Fitzroy-square, brass worker, May 29 at half-past 11, London, aud. ac.—*Henry Wigg* and *Burton Smith*, Gresham-street West, City, commission agents, May 29 at 1, London, aud. ac. sep. est. of *Burton Smith*.—*John Richards*, Aberystwith, Cardiganshire, draper, June 11 at 11, Bristol, aud. ac.—*Henry Mundy*, Gloucester, ironmonger, July 2 at 11, Bristol, aud. ac.—*John H. Davies* the younger, Bridgend, Glamorganshire, grocer, June 4 at 11, Bristol, aud. ac.—*Charles H. Clayton*, Liverpool, hosier, May 29 at 12, Liverpool, aud. ac.—*Alfred Taylor*, Wednesbury, Staffordshire, builder, June 12 at half-past 11, Birmingham, aud. ac. and div.—*J. Hughes*, Shrewsbury, maltster, May 29 at half-past 11, Birmingham, aud. ac.—*Henry Evans*, Wednesbury, Staffordshire, grocer, May 29 at half-past 11, Birmingham, aud. ac.—*James Ellis*, Birmingham, timber merchant, June 5 at half-past 11, Birmingham, aud. ac.—*Wm. Baker*, Birmingham, clock maker, May 29 at half-past 11, Birmingham, aud. ac.—*Sleater Geoghegan*, Palsgrave-place, Strand, engraver, June 10 at half-past 11, London, div.—*John Inkersole*, Sawbridgeworth, Hertfordshire, brewer, June 9 at half-past 12, London, div.—*John Solomon*, Circus, Minories, shipowner, June 9 at 11, London, div.—*Leonard Laidman*, Chancery-lane, and Wentworth-lodge, Coborn New-road, Bow, stationer, June 11 at 1, London, div.—*Ephraim Fairhead*, Cressing, near Braintree, Essex, cattle dealer, June 11 at 2, London, div.—*George Anderson*, Upper-street, Islington, stationer, June 11 at half-past 11, London, div.—*Anthony Bennett*, Ashton-under-Lyne, Lancashire, painter, June 9 at 12, Manchester, aud. ac.; June 10 at 12, div.—*William Moore*, Bradford, Wiltshire, blue dyer, June 11 at 11, Bristol, fin. div.—*David Davis*, Merthyr Tydfil, Glamorganshire, general-shop keeper, June 11 at 11, Bristol, fin. div.—*Thomas Laidler* and *John Carr*, Jarrow, Durham, coke burners, June 11 at 12, Newcastle-upon-Tyne, div. joint est., and div. sep. est. of *T. Laidler*.—*James Turner*, Newcastle-upon-Tyne, oil merchant, June 12 at 11, Newcastle-upon-Tyne, div.—*Robert Rumney Charles* and *William Fordyce*, Haughton, Northumberland, paper manufacturers, June 11 at 11, Newcastle-upon-Tyne, div. sep. est. of *R. R. Charles*.—*Thomas Henry Cogdon*, Sunderland, Durham, plumber, June 12 at 12, Newcastle-upon-Tyne, div.—*Michael Byers* and *Thomas Byers*, Monkwearmouth Shore, Sunderland, ship builders, June 10 at half-past 12, Newcastle-upon-Tyne, div. joint est., and div. sep. est. of *M. Byers*.—*Samuel Craig*, Nuneaton, Warwickshire, grocer, June 12 at half-past 11, Birmingham, div.—*John M'Carthy*, Aston, near Birmingham, publican, June 10 at half-past 10, Birmingham, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Richard Griffith the elder and *Richard Griffith* the younger, Hatton-wall, and St. James's-walk, Clerkenwell, brass founders, June 10 at 12, London.—*Robert Clinch*, Salisbury, livery-stable keeper, June 10 at half-past 1, London.—*Maurice Meyer* and *Sigismund Sechel*, Newgate-street, general merchants, June 10 at 1, London.—*Louis Birnstingl*, Broad-street-buildings, City, merchant, June 10 at half-past 1, London.—*Henry Faithfull*, Woodstock-road, East India-road, Blackwall, merchant, June 9 at 1, London.—*James Turner*, Newcastle-upon-Tyne, oil merchant, June 12 at half-past 11, Newcastle-upon-Tyne.—*Edward Watmough*, Manchester, draper, June 25 at 12, Manchester.—*George Watmough*, Bolton, Lancashire, draper, June 25 at 1, Manchester.—*Edward Bevan*, Kidderminster, victualler, June 11 at half-past 10, Birmingham.—*James Steen Harvey*, Birmingham, grocer, June 18 at 10, Birmingham.

To be granted, unless an Appeal be duly entered.

Charles Oswald Robson, Belmont-wharf, York-road, King's-cross, wharfinger.—*Samuel Bradbury*, Holborn-hill, cheesemonger.—*Richard Harvey* the younger, Crutched-friars, City, merchant.—*James Balding*, King's Arms-place, Old Kent-road, hat manufacturer.—*Horatio Bunting*, Colchester, seedsman.—*Edwin Mosley*, Hyde-street, Bloomsbury, gold beater.—*James Smith*, Egham Hythe, Egham, Surrey, cattle dealer.—*Henry Campin*, Watling-street, City, warehouseman.—*Charles Cooper*, High-street, Wandsworth, grocer.—*Margaret Jane Stoveld*, Blyth, Northumberland, ship builder.—*Francis Bee*, Sheffield, Yorkshire, table-knife manufacturer.—*George Spilsbury*, Wolverhampton, builder.—*Joseph Suckling* the younger, Birmingham, hop dealer.

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JOHN DANCE and HENRY WANE, Fairford, Gloucestershire, grocers, June 3 and July 7 at 11, Bristol: Off. Ass. Miller; Sol. Trenerry, Bristol.—Pet. f. May 13.

BENJAMIN BAKER, Cardiff, Glamorganshire, apothecary, June 3 and July 6 at 11, Bristol: Off. Ass. Miller; Sols. Cruttwell & Co., Bath; Bevan & Girling, Bristol.—Pet. f. May 18.

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THE JURIST.

LONDON, MAY 30, 1857.

IN an article upon the subject of appointments to children, which appeared in our impression of the 25th April, we stated and examined at considerable length the case of *Jebb* v. *Jugwell*, or *Tugwell*, (1 Jur., N. S., part 1, p. 460), and expressed an opinion that it should have been held that the appointment there in question was wholly void, and not that the power was merely excessively executed. We arrived at this conclusion upon the assumption that the construction put by the Master of the Rolls upon the will containing the power was correct, and consequently, first, that the terms of the will put it out of the power both of the widow and her daughters to affect the interests of the daughters' children otherwise than by apportionment of the shares; and, secondly, that it was not the testator's intention that in case of an appointment by the widow in her lifetime, in the exercise of the power reserved to her by his will, the daughters should thereby be enabled to dispose of their reversionary interests in the property which they might take by virtue of that appointment. At the same time we fully admitted the principle upon which it was endeavoured to uphold the validity of the appointment, namely, that a power to appoint in such proportions as a person pleases, or a general power to apportion lands, implies that the donee may apportion in such manner as he pleases, and therefore authorises him to create various estates under it, and to give qualified interests; and also, that when under a power, either exclusive or distributive, an appointment is made to a married daughter, although the appointee's share need not be limited to her separate use, yet it will be considered most agreeable to the meaning of the donor of the power that her share should be so limited, unless he has himself expressed an intention to the contrary. At the moment, however, it escaped our recollection that the construction of the will adopted by the Master of the Rolls in *Jebb* v. *Tugwell* had not found favour in the sight of the Lords Justices, (see 2 Jur., N. S., part 1, p. 54), and that their Lordships had overruled his Honor's decision in that case, and established the validity both of the appointment and subsequent settlement, without prejudice, however, to any question which might afterwards arise as to whether the husband of C., the daughter who had children, would, in the event of his surviving his wife, be entitled to a life interest in the property, or any part of it; although Sir J. L. Knight Bruce, L. J., inclined to think that he would be so entitled. Their Lordships did not assign precisely the same grounds for their opinion, but they both appear to have considered that no intention could be collected from the will to restrain the daughters from disposing of their interests before they came into possession; and they also held that his Honor was mistaken in the effect which he attributed to the clause in the will directing that the fortune of each of the testator's daughters should go to her children after her decease, in such proportions as she might direct. We have merely noticed this case again in order to correct an error into which we might otherwise have led our readers, by omitting to mention the reversal of the Master of the Rolls' decision with respect to the construction of the instrument creating the power. The great principles which were introduced into the discussion of the validity of the appointment have not been impugned on any part; nor does the judgment of the Court of Appeal, as will be seen by reference to the report of the proceedings, and to our previous article, in the slightest degree intrench upon the positions which in that article we undertook to illustrate.

In connexion with the same subject we published in our number of the 2nd May a letter from a correspondent, who suggests that the judgment of Sir W. P. Wood, V. C., in the case of *Fry* v. *Capper*, (1 Kay, 163), has rendered it doubtful whether a clause in restraint of anticipation can lawfully be annexed to an appointment in favour of a daughter to her separate use; and at the same time cites the cases of *Carver* v. *Bowles*, (2 Russ. & M. 304); *Thornton* v. *Bright*, (2 My. & C. 230); and *Dickenson* v. *Mort*, (8 Hare, 178), to shew that the high authority of Sir John Leach, Lord Cottenham, and Sir J. Wigram is opposed to the invalidity of such a condition. Now, in the first place, we have no hesitation in asserting, that wherever a valid appointment of any interest in real or personal property is made either to a married or single woman to her separate use, and thereto is annexed a clause in restraint of anticipation, which is not prohibited by the manifest intention of the instrument creating the power, and which does not prevent alienation beyond the limits allowed by law, that clause is valid and effectual. Nor is it of the slightest consequence to the determination of the validity of the clause whether the power is one to appoint amongst children, or amongst any other class of persons. But the real question which in the case of *Fry* v. *Capper* the Vice-Chancellor was called upon to decide was not whether in an appointment to a daughter a clause restraining anticipation is ever valid, or under what circumstances it is valid, but whether such a clause is valid when annexed to an appointment to a woman, unborn at the creation of the power, but under coverture at the time when the instrument executing the power came into operation; and if invalid in the particular case, whether the appointment for the benefit of the married daughter could itself be supported. It is with the first part of this question that we are principally concerned; although we may at once say, that in our opinion the Vice-Chancellor was perfectly correct upon all points. At the same time we do not deny the difficulty of reconciling the previous cases cited by our correspondent with the rejection of the condition in *Fry* v. *Capper* as inoperative; but we think, that, independently of those cases, it would be easy to prove that his Honor's decision was quite in accordance with established principles. It is well known that under a particular power no estate can be created which would not have been valid if limited in the instrument creating the power. If, then, in the case of *Fry* v. *Capper*, we read the appointment made by the donee of the power, who was tenant for life under the settlement, in conjunction with the settlement itself, by which the power was created, the limitations of the equitable estate will, so far as material, stand thus:—To A. for life; and after A.'s decease, to B., an unborn daughter, for her life, for her separate use, but without power of anticipation; and after B.'s decease, as B. should by deed or will appoint; and in default of appointment, to her executors or administrators. Take away the restraint upon anticipation, and the result is equivalent to a mode of disposition which was upheld as legitimate in the case of *Bray* v. *Hammersley*, (3 Sim. 513; S. C., nom. *Bray* v. *Bree*, 2 Cl. & Fin. 453). It is exactly the same thing as if a life interest had been limited to A., and a general power of appointment, after A.'s decease, had been given to a daughter of A., unborn at the date of the deed; and in default of appointment, the estate limited upon trust for her for life, for her separate use; and after her decease, to her executors or administrators. In this there is no infringement of the rule against perpetuities. The property is not tied up an instant longer than the life of A., for the separate use is no impediment to alienation, but, on the contrary, rather facilitates it, where the fund is in the hands of trustees. If, however, to a set of limitations in the above form, where an unborn daughter, who will be under coverture at the time when her interest vests, is either made tenant for life simply, or takes, upon the decease of the survivor of lives in being at the date of the deed, what is equivalent to an absolute interest in the property, you attach a condition that she shall not anticipate the income, it is manifest that, even supposing the restraint to be confined to the life of a single husband, a period much longer than twenty-one years after a life or lives in being at the time when the instrument creating the limitations comes into operation *may* elapse before the property can be alienated. A free and unfettered power of alienation, as an inseparable incident to an estate, has ever been considered most important to the welfare of the community. The desire to confine the suspension of this power within fixed and certain limits mainly conduced to the establishment of the rule against perpetuities; and although here there is no postponement of the vesting of the estate beyond the prescribed term, yet that rule is no less infringed by rendering possible the occurrence of an evil, which the prohibition of that very postponement was especially designed to remove. Could it, then, have been the intention of the Court of Chancery, when that Court determined to give effect to a clause restraining a married woman from anticipating or alienating her separate property, deliberately to break through a rule which has received the solemn sanction of all the judges on a question propounded to them by the highest tribunal in the kingdom, and which has ever been deemed one of the most vital principles of the law? No doubt, when gifts to the separate use of a married woman were first supported in equity, a legal principle was equally violated. A clear encroachment was thereby made upon the marital right, as maintained by the common law, which refuses to recognise the separate existence of a feme covert. But in this particular equity interposed to amend what the general sense of the nation admitted to be a defect in our system of jurisprudence, and so to adapt that system, the efficiency of which it is jealous to preserve, to wants which were universally felt and acknowledged. On all ordinary occasions the maxim prevails, that equity follows the law, and therefore a Court of equity will be very careful of interfering with a doctrine which constitutes a valuable safeguard to the interests of society at large. One exception makes many, and by meddling too frequently with the foundations of a building you may cause the whole superstructure to totter and to fall. The separate use, as we have said, puts no obstacle in the way of alienation; and the clause against anticipation, which was introduced as a modification of the separate estate, was designed merely to effectuate more completely the wishes of the donor, by preventing the security which he had intended to attach to his gift from being destroyed through the influence of the husband over the mind of the wife—an influence often found to be as powerful for the purpose as the unqualified legal right. The intention of the donor was to give the object of his bounty all the faculties of a feme sole, excepting the power of alienation; and in this attempt equity was willing enough to aid him, so long as he did not limit the estate in a manner which would restrict the absolute disposal of it beyond the term prescribed by law; but there is not the faintest symptom, in the early cases at least, that the judges were prepared to go any further. (See the judgment of Lord Langdale in *Tullett* v. *Armstrong*, 1 Beav. 33). "*I do not*," said Lord Thurlow, who first suggested the clause, "*hereby take away any of the incidents of property at law;* this interest which a married woman is suffered to take is a creature of equity, and equity may modify the power of alienation." (1 Rose, 200). But if this interest is a creature of equity, equity cannot modify the power of alienation, so as, for a time exceeding the legal limits, to deprive the owner of the full enjoyment of the estate, without taking away an additional incident of property at law, and one which the separate use did not touch. Moreover, the doctrine as to the separate estate was for a long time by no means well settled; and it is to be observed, that in all the cases cited by our correspondent it was contended that the separate use was itself invalid, and in none of them does the question, whether the modification of it infringed the rule against perpetuities, appear to have presented itself to the minds either of the counsel or the judge. So far as we can collect from the reports, which are scanty, no distinction between the two was suggested in the argument or noticed in the judgment. In the report of *Carver* v. *Bowles* the reasoning of the counsel, and the grounds upon which the Master of the Rolls proceeded in his judgment, are not stated; but the question which was raised with respect to the restriction against anticipation was, whether, if the shares were well appointed to the daughters absolutely, *that restriction, and the limitations to the separate use of the daughters during their lives*, were valid, *having regard to the terms of the power contained in the settlement;* and the Master of the Rolls held that they were. But *the terms of the power* were amply sufficient to warrant the limitations to the separate use, and, irrespective of the transgression of the rule against perpetuities, the restraint upon anticipation likewise; and this circumstance, added to the coupling of the two subjects together in one question, and the silence of the report, renders it more than probable that the precise point was never thought of in this case at all. Lord St. Leonards several times alludes to another and the main topic of discussion in *Carver* v. *Bowles*, but only once to the restraint upon anticipation, and then with a "But see as to this point," referring to his own chapter on the subject, which can hardly be construed otherwise than as an expression of his disapproval. (2 Sugd. Pow. 33, 150, 259, note (s)). In *Thornton* v. *Bright*, where, by a settlement of real estate on marriage, an exclusive power was given to the tenant for life to appoint *the legal estate* to his children, it was held that an appointment *to trustees* for the separate use of a daughter during the joint lives of herself and her husband was a valid exercise of the power, and the trustees were directed to pay the rents to the separate use of the daughter during the joint lives of herself and her husband. Though the words "without power of anticipation" were annexed to the trust, the question of their validity was certainly not contested, and seems never to have been brought forward; and they are omitted in the short statement which the reporter gives of the decree. In *Dickenson* v. *Mort* it was also contended, that not only the clause against anticipation, but likewise the trust for the separate use of the married daughter for life, was invalid, and that the effect of the appointment was to give to her the absolute interest in the sum charged as a portion, unaffected by either of these conditions. The report is very brief; but from the judgment it would be inferred that the objection urged in this case was, that the donee of the power could not appoint less than the absolute interest; and the Vice-Chancellor correctly held that he could.

From our remarks it will be seen that we do not think the cases cited by our correspondent amount to a conclusive condemnation of the decision of Sir W. P. Wood, V. C., in *Fry* v. *Capper*. A careful scrutiny into the authorities leads us to believe that his Honor was the first judge before whom the topic we have been discussing was fairly started; and recurrence to general principles confirms to our mind the soundness of his opinion. A case, however, might occur in which the matter would be still further complicated. In all the cases that have been mentioned, the appointee, unborn at the creation of the power, was under coverture when the appointment took effect. Assuming that the clause restraining anticipation would in such a case be invalid, would it be equally void if the appointee had no husband alive when the appointment came into operation? In the absence of authority we think not; because, as the restraint upon anticipation, equally with the separate use, can exist only during coverture, she would always be able to preclude its operation. The appointment, if inserted in the instrument creating the power, would amount to a limitation to one for life, and after his decease, to his unborn daughter; but, in case of the daughter's marriage, imposing a contingent restraint upon alienation, which restraint, however, it *must* be within her capacity before marriage to defeat, because at the time when her interest vests she will be a feme sole. A state of circumstances cannot arise in which the instrument can fasten the restraint upon her against her will.

ON SIR ERSKINE PERRY'S BILL.

(*From a Correspondent*).

This bill does not in general even attempt to preserve vested interests, and whatever may be the proper course to adopt as to the property of women hereafter to be married, it is strongly opposed to the principles which have always guided our Legislature, that the right which, at the passing of this act, a husband may have to the enjoyment of his wife's real estate during their joint lives, and to the possession of such real estate as tenant by curtesy, should be at once either destroyed or placed in the power of the wife. The 1st section of the proposed act confers on a married woman the power of alienating, devising, and bequeathing real and personal estate, as if she were a feme sole—the rights of the husband, in consideration of which he may have settled his whole property on the wife, or have impoverished himself in payment of her debts, ante-nuptial or otherwise, being entirely disregarded. From the 3rd section, which in effect settles to the separate use of married women all after-acquired property, it would appear that such after-acquired property alone was intended to be dealt with by this act; but the absolute powers of alienating, devising, and bequeathing given by the 1st section are too clear to be overruled by the

3rd section; the two sections are, however, incongruous, and one of them is clearly unnecessary. If a married woman have an absolute power, as given by sect. 1, to hold, acquire, alien, devise, and bequeath real and personal estate as a feme sole, it is unnecessary to provide by the 3rd section that her after-acquired property shall vest absolutely in her, and be subject to her sole disposition. As to the 4th section, nothing need be said here, as the question whether the husband interfere in the management or participate in the profits of the occupation or trade carried on by the wife will doubtless be sufficiently discussed in each several case. The 6th section appears to afford a remarkable instance of the result of careless drawing. By this section the surviving child of a married woman dying intestate would take the personal estate of such married woman to the absolute exclusion of her grandchildren and of other descendants of deceased children. If this be the intention of Sir E. Perry, such intention should have been shewn either by the title or the preamble of the bill. The general effect of sects. 7 and 8 appears to be, that if a married woman publish a libel, or otherwise injure any third person, the injured party, after having obtained a verdict, may, if so inclined, take in execution goods or other property of the husband to the extent of the value of the goods or property acquired by the husband from the wife. No machinery being provided for shewing the value of the goods or property so acquired by the husband, a prudent person will most probably rather put up with the first loss than attempt to estimate the exact amount which he may legally attach. It may be remarked, that though the husband is in every case made liable only to the extent to which he has been benefited by his wife, yet he may, in repeated cases, be liable in each for the whole of such amount. The 10th section is of so monstrous a character, placing as it does almost unlimited powers in the hands of the county court judges, that it is impossible that that section can be allowed to pass. As a further instance of the carelessness with which this act has been prepared, we may notice that no power is given to the judges, authorised to act under this section, to compel the production of books or papers. An inventory of the separate property of a man as proposed to be prepared (sect. 11) is at least a novelty, and we should have been grateful to Sir E. Perry had he condescended to explain whether an inventory filed in pursuance be notice, and to whom, of the proprietorship of the property in such inventory. Under the 12th section it seems doubtful whether a husband, who may have failed to spend the rents and profits of his wife's estate, would not at her death be liable to account for the accumulations thereof. The interpretation clause (sect. 14) requires a further interpretation clause for its explanation. We confess that we do not know what is meant by hereditaments of "tenant right" tenure.

J. T. C.

THE PROPERTY OF MARRIED WOMEN BILL.

If this bill passes, it will, with many others that have passed, furnish proof of the want of a "board," or "department," for examining, amending, and reporting upon the details and language of all bills—a board from which, if it were required to give critical reasons for all the alterations recommended by it, we might expect in time to receive valuable contributions to the science of legislative expression—a science at present in its infancy, and almost unknown. We respect the intentions of the gentlemen who have brought in this bill, and we hope that very much more will be done on behalf of married women than they have attempted to do; but it is our duty to shew that the bill is too ill drawn to be fit for passing in its present shape, or in any possible amended form; in short, that, as Mr. Joshua Williams would say, it has not been conceived or drawn by a conveyancer.

The framer of the bill seems to be unaware that the genus includes the species. He first enacts, generally, (sect. 1), that a married woman shall from the passing of the act be capable of holding, acquiring, alienating, devising, and bequeathing real and personal estate, and of suing and being sued, as if she were a feme sole; and then makes a variety of particular enactments, which collectively do not extend to the limits of the general enactment, and would be superfluous if that were capable of operation.

Sect. 1. "From and after the passing of this act a married woman shall be capable of holding, acquiring, alienating, devising, and bequeathing real and personal estate, and of suing and being sued, as if she were a feme sole."

2. "No marriage solemnised after the 1st January, 1858, shall operate any change in or effect any charge on the real and personal estate of either husband or wife, except in so far as shall be specified in any settlement or agreement for a settlement made before the marriage."

Why, in this case only, wait until the 2nd January? But, first, what does this mean? Is dower or curtesy a change or a charge? Is the power of reduction into possession a change or a charge?

3. "All real and personal estate hereafter acquired by any married woman, and which but for the passing of this act would fall under the control of, or vest absolutely in, the husband, shall vest absolutely in the wife, and be subject to her sole disposition and control."

Very well; but is not sect. 1 intended to do this, and much more?

4. "The earnings of a married woman, in any occupation or trade carried on by her separately from the occupation or trade of her husband, shall be deemed to be her personal estate; and as to all engagements or contracts entered into by her with respect to such occupation or trade, she shall be solely liable, unless her husband interferes in the management or participates in the profits of such occupation or trade."

We need only hint at two of the innumerable questions that would arise on this enactment. What would be a husband's interfering in the management, and what a husband's participating in the profits of a trade?

5. "Upon the death of a married woman intestate, her husband shall take the same distributive share in her personal estate as such married woman would take in the personal estate of her husband if he died intestate."

A wife dies intestate, leaving a husband who is childless, and children by a deceased husband. *She* would take one-half of her second husband's personal estate if he died intestate; shall *he* take one-half of hers? Does the clause apply to a partial intestacy?

6. "Subject to the last-mentioned provision, the personal estate of such married woman shall, if she leave any children, be distributed among them equally; or, if she leave only one child, the same shall go to such child; but if she leave no child, then the said personal estate shall go to or be distributed among such person or persons as would, under the Statute of Distributions, be entitled thereto had such married woman died a feme sole, and her real estate shall descend to her next heirs."

This is an incorrect, clumsy, and imperfect provision as to personalty, under which an uncle would rob his nephews and nieces; and it includes a superfluous and incorrect declaration respecting real estate, under which estates pur autre vie would be transmissible to the heir, and, perhaps, customary descents would be abolished.

7. "A married woman shall be liable upon any con-

tract which she may have entered into before marriage, or which she may enter into on her own account, or jointly with her husband, after marriage, and also for any pecuniary damage caused by her own wrong."

8. "A husband shall not be liable for the debts of his wife contracted before marriage, or for any pecuniary damage caused by her own wrong, either before or after the marriage; but in every judgment obtained against the wife, of whatsoever nature, it shall be lawful for the plaintiff to take in execution the goods or other property of the husband, but only to the extent of the amount or value of such goods or property acquired by the husband from or on behalf of his wife, by ante-nuptial settlement or otherwise."

"Liable." How liable? Does this include liability to arrest and imprisonment on final process? What is *pecuniary* damage? Damages are paid in money; but they are a fruit, not a cause, of action.

The husband's property is to be liable to execution on a judgment against his wife, to the extent of the amount or value of "such" goods or property acquired by the husband from or "on behalf of" his wife. Is he to be liable over and over again? For instance—by settlement he acquires 1000*l.* sterling from his wife. A judgment is obtained against the wife for 1000*l.*, and levied from the goods of the husband. The wife contracts further debts, which the husband compromises by paying 1000*l.* to the creditors. Then a judgment is obtained by other creditors of the wife. Are the husband's goods again liable to execution to the extent of 1000*l.*? Must the creditors exhaust the wife's assets first? Will the husband, after execution, be entitled to indemnity out of his wife's property? Will he be liable after separation and alimony? &c., &c.

9. "In all possessory actions the joint possession of husband and wife shall be deemed to be the possession of the husband, and it shall not be necessary to join the wife in any such action; and in all claims by third parties against husband and wife, or against the husband alone, the title to personal property, in the apparent possession of the husband, shall be deemed to be in him until the contrary be shewn."

10. "In any question of title as to property or possession between husband and wife it shall be competent to either party to apply by petition to any judge of the superior courts of Westminster Hall, or to the judge of the county court of the district wherein the petitioner shall reside; and such judge shall thereupon, if he sees fit, order the parties to attend before him, and shall proceed to hear them (or either of them, if the other party after due notice fail to appear) and their witnesses vivâ voce, and in a summary way, without any pleadings touching the matter in dispute, and in his private room, if the parties so require; and shall thereupon make such order as to the property or possession, or as to a further inquiry, as justice may require; and any breach of such order shall be treated as the breach of an order of the Court of Chancery, and be punished accordingly."

11. "Upon any such application it shall be competent to the judge to order an inventory of any property, which after due inquiry shall appear to be the separate property of either husband or wife, to be prepared at the expense of the applicant, and to be filed of record in his court."

"Any question of title as to property or possession." What *does* this mean? Whatever it means is placed within the jurisdiction of a county court judge, though the amount be 100,000*l.*, and the order of the judge is to be enforced as an order of the Court of Chancery. Whether otherwise enforceable does not appear.

12. "When a married woman, having real or personal estate, has allowed her husband to receive the rents and profits, or to use and dispose of the personalty, the husband shall not be held liable to account for such rents, profits, and personalty for any period during which he has so received and disposed of them with such consent as aforesaid; and in the case of her death, he shall be held liable to account only for such rents, profits, and personalty as are in his hands or under his disposition and control."

When will a wife be said to have "allowed" her husband to take her property? Is temporary acquiescence under baculine persuasion allowance?

13. "Nothing in this act contained shall interfere with any settlement, or agreement for a settlement, made in consideration of marriage."

14. "In the construction of this act, the words 'real estate' shall extend to manors, advowsons, messuages, lands, tithes, rent-charges in lieu of tithes, rents, and hereditaments, whether freehold, customary freehold, tenant right, customary, or copyhold, or of any other tenure, and whether corporeal, incorporeal, or personal, and whether the same shall be in possession, reversion, remainder, or contingency, and to any undivided share thereof, and to any estate, right, or interest (other than a chattel interest) therein; and the words 'personal estate' shall extend to leasehold estates and other chattels real, and also to monies, shares of Government and other funds, securities for money, (not being real estates), debts, choses in action, rights, credits, goods, and all other property whatsoever which by law devolves upon the executor or administrator, and whether the same be in possession, reversion, remainder, or contingency, and to any share or interest therein."

Under this clause an estate pur autre vie, not specially limited to the heirs, will be two gentlemen in one.

15. "This act shall not extend to Scotland or Ireland."

"Nor to England" should be added.

If Sir Erskine Perry and Mr. M. Milnes find themselves covered with ridicule on account of this unfortunate bill, let them console themselves by reflecting that its absurdities, though more obvious, are not really greater than those of nine-tenths of the bills that are brought into Parliament; that there are, perhaps, some acts of Parliament nearly as bad; that there are not twenty well-drawn public acts in existence; and that the public and the Legislature, and, to a great extent, the lawyers, are still unaware that drawing for legislation is an art of extreme difficulty, which is not possessed by one lawyer out of twenty, even though learned and otherwise skilful, *and a conveyancer.*

The writer of this notice will seek a more worthy occasion to discuss the important question, which has been raised in the pages of The Jurist and elsewhere, as to the propriety of giving to a married woman rights of property while personal liberty is withheld. The objection put by Lord Campbell to Lord Brougham's bill of the last session, in the form of the question, "What is to become of the children?" has been properly answered in a leading article of The Jurist, (ante, p. 140). But that question, or rather the editor's comment on it, suggests serious considerations as to the expediency of altering the law in respect of the obligations of parents to children. It is a whimsical reason, or would appear so to a foreigner, to give for the legal liability of a parent to maintain his children, and characteristic of the fortuitous origin of our laws—"that otherwise the rates of a parish might be increased;" and the whole subject of parental duty must have caused much perplexity to Blackstone, who is so anxious to identify the English laws with those of nature and of God, and yet can find no legal sanction for the duty of parents to maintain and educate their children, other than the statute of Elizabeth and a negative decision of Sir John Holt, on the duty of maintenance, and Puffendorff, and some statutes relating to parish apprentices and to Papists, on that of education. It is certainly the duty of a parent to spend a fair portion of his means in educating his children; and if we can so easily sanction an inquisition into men's incomes in order to provide for the wants of the state and of Dowb., we ought not to find an insuperable difficulty in extracting from every taxable man a suitable education for his children.

G. S.

PUBLIC EXAMINATION OF STUDENTS.

At the public examination of the Students of the Inns of Court, held at Lincoln's Inn Hall, on the 19th, 20th, and 21st May, 1857, the Council of Legal Education awarded to—

Arthur Cohen, Esq., student of the Inner Temple, a studentship of fifty guineas per annum, to continue for a period of three years.

George Waugh, Esq., student of Lincoln's Inn; George Colt, Esq., student of Lincoln's Inn; and John W. Vernon Blackburn, Esq., student of Lincoln's Inn, certificates of honour of the first class.

Edmund Sheppard, Esq., student of the Inner Temple; H. I. M. Williams, Esq., student of the Inner Temple; Henry Drake, Esq., student of the Middle Temple; S. Courthope Bosanquet, Esq., student of Lincoln's Inn; Charles S. Currer, Esq., student of Lincoln's Inn; Frederic A. Inderwick, Esq., student of the Inner Temple; H. C. Folkard, Esq., student of Lincoln's Inn; W. Halliday Cosway, Esq., student of Lincoln's Inn; Richard L. De Capell Brooke, Esq., student of the Inner Temple; and Henry Stone, Esq., student of the Inner Temple, certificates that they have satisfactorily passed a public examination.

By order of the Council,

(Signed) Edward Ryan, Chairman (pro tem.)

BILLS IN PROGRESS.

ABSTRACT OF A BILL

To amend the Law relating to Probates and Letters of Administration in England.

Sect. 1. Commencement of act.

2. Interpretation clause. "Will." "Administration." "Matters and causes testamentary." "Common form business."

3. Testamentary jurisdiction of ecclesiastical and other courts abolished.

4. Testamentary jurisdiction to be exercised by a Court of Probate in London or Middlesex.

5. Her Majesty to appoint judge of the court; the first judge to be the present judge of the Prerogative Court.

6. Judge's tenure of office.

7. Judge to take oath.

8. Precedence of judge, secretary, &c.

9. There shall be paid to the judge the net yearly salary of 4000*l.*, and to his secretary the net yearly salary of 300*l.*, and to his usher the net yearly salary of 150*l.*

10. Judge of Court of Probate to be also judge of the Admiralty Court on the next vacancy.

11. Increase of salary upon union of the offices to 5000*l.*

12. Retiring pension, 3500*l.*

13. District registries to be established. (Schedule A).

14. Officers of the Court of Probate.

15. First officers of the principal registry.

16. Clerks and officers of the Prerogative Court to be transferred to like offices in Court of Probate.

17. Existing diocesan registrars to be entitled to be district registrars at the same places.

18. Appointment to offices. Salaries.

19. Tenure of office.

20. Qualification of registrars and district registrars.

21. Officers of the court to execute their offices in person. Registrars and clerks of the principal registry not to act as proctors, &c.

22. Seal of the court.

23. The court to have throughout all England the same powers as the Prerogative Court within the province of Canterbury. Suits for legacies or distribution not to be entertained.

24. Power to examine witnesses. Production of deeds, &c.

25. Powers of court to enforce orders.

26. Order to produce any instrument purporting to be testamentary.

27. Registrars, &c. to have power to administer oaths. Power to appoint also commissioners to administer oaths, &c.

28. Forging or counterfeiting seal or signature of officers. Penalty.

29. Procedure of the court.

30. Judge may make rules and orders for regulating the procedure of the court.

31. Subject to the regulations to be established by such rules and orders as aforesaid, the witnesses, and where necessary the parties, in all contentious matters, where their attendance can be had, shall be examined orally by or before the judge in open court: provided always, that, subject to any such regulations as aforesaid, the parties shall be at liberty to verify their respective cases, in whole or in part, by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party, be subject to be cross-examined by or on behalf of such opposite party orally in open court as aforesaid, and after such cross-examination may be re-examined orally in open court as aforesaid by or on behalf of the party by whom such affidavit was filed.

32. Court may issue commissions or give orders for examination of witnesses abroad or unable to attend.

33. Rules of evidence in common law courts to be observed.

34. Common law judges may sit on request.

35. Court may direct issues to courts of law.

36. New trials.

37. Appeal to the Privy Council.

38. Advocates admitted to practise. Barristers may practise in contentious causes.

39. Advocates admitted to practise as barristers.

40. Every person who at the time of the passing of this act is actually admitted and practising as a proctor and notary in the courts in Doctors' Commons, or in any ecclesiastical court in England, may, upon his application, at any time within one year after the passing of this act, be admitted a proctor of the Court of Probate, without payment of any fee or stamp duty. Except as herein otherwise provided, the admission of persons to be proctors of the court shall be in the discretion of the judge, subject to the rules or orders to be made under this act; and the proctors for the time being of the Court of Probate shall have the same rights and be subject to the same obligations and liabilities in respect of the transaction of the common form business as the proctors of the Prerogative Court now have and are subject to in respect of the transaction of the common form business of the last-mentioned court: provided that nothing herein contained shall be taken to give any proctors now practising, or any persons hereafter admitted, any claim or title to compensation in case the transaction of the business of the Court of Probate be thrown open to any other class or classes of persons, or otherwise be regulated under the rules or orders to be made under this act or by the authority of any future act of Parliament: provided also that it shall be lawful for the judge of the Court of Probate, if he shall think fit, to admit any persons, or by rules or orders under this act to direct the admission of any class or classes of persons, to practise as proctors in all or any of the district registries of the court; but nothing herein, or in such rules or orders, shall prevent parties from applying to such district registries, and acting in relation to their applications, without the intervention of proctors.

41. Every person who at the time of the passing of this act is actually serving or has served as an articled clerk to a person entitled to act as a proctor in the courts at Doctors' Commons, or in any ecclesiastical court in England, and entitled to take such articled clerk, and who has not been admitted as a proctor, shall be entitled, at any time within one year after his having completed his full term of service as such articled clerk, to be admitted a proctor of the Court of Probate.

42. Solicitors and attornies admitted to practise in contentious business.

43. Probate of a will or letters of administration may, upon application for that purpose to the district registry, be granted in common form by the district registrar in the name of the Court of Probate, and under the seal appointed to be used in such district registry, if it shall appear by affidavit of the per-

son, or some or one of the persons, applying for the same, that the testator or intestate, as the case may be, at the time of his death had a fixed place of abode within the district in which the application is made, and that the personal estate of the deceased in respect of which probate or administration should be granted, exclusive of what the deceased may have been possessed of or entitled to as a trustee, and not beneficially, but without deducting anything on account of the debts due and owing from the deceased, is under the value of 1500*l.*; and all grants of probate and letters of administration granted by such district registrars shall be deemed grants by the Court of Probate, and shall have effect over the personal estate of the deceased in all parts of England accordingly.

44. Affidavit conclusive.

45. District registrars not to make grants where there is contention, &c.

46. District registrar, in case of doubt as to grant, to take the directions of the judge.

47. District registrars to transmit lists of probates and administrations, and copies of wills.

48. District registrars to preserve original wills.

49. Caveats.

50. Where personalty under 200*l.*, and real property under 300*l.*, county court to have jurisdiction.

51. Registrar of county court to transmit certificate of decree for grant or revocation of probate.

52. The judge of the county court to decide causes and enforce judgments, as in other cases.

53. Affidavit of the facts giving the county court jurisdiction to be conclusive, unless disproved while the matter is pending.

54. Appeal from judge of the county court.

55. Option of applying to Court of Probate in every case.

56. Judge to make rules and orders regulating the procedure of county courts under the act.

57. Where a will affecting real estate is proved in solemn form, or is the subject of a contentious proceeding, the heir and persons interested in the real estate to be cited.

58. Where the will is proved in solemn form, or its validity otherwise decided on, the decree of the court to be binding on the persons interested in the real estate.

59. Heir in certain cases not to be cited, and where not cited, not to be affected by probate.

60. Probate or office copy to be evidence of the will in suits concerning real estate, save where the validity of the will is put in issue.

61. As to costs of proof of will.

62. Place of deposit of original wills.

63. Calendars to be made up and printed.

64. Registrar to transmit printed copies to certain offices.

65. Official copy of whole or part of will may be obtained.

66. Administration pendente lite.

67. Receiver of real estate pendente lite.

68. Remuneration to administrators pendente lite and receivers.

69. Power as to appointment of administrator.

70. The 38 Geo. 3, c. 87, extended to administrators.

71. After grant of administration no person to have power to sue as an executor.

72. Revocation of temporary grants not to prejudice actions or suits.

73. Payments under revoked probates or administration to be valid.

74. Rights of an executor renouncing probate to cease, as if he had not been named in the will.

75. Sureties to administration bonds.

76. Bond.

77. Penalty on bond.

78. Power of court to assign bond.

79. Pending suits transferred to Court of Probate, except appeals. Proviso.

80. Power to judges whose jurisdiction is determined to deliver written judgments.

81. Void and voidable probates and administrations.

82. Probates and administrations granted before this act comes into operation.

83. Probate or administration may be granted of personal estate not affected by the former grants.

84. Judges of present ecclesiastical courts and others to transmit all wills, &c. to the registry.

85. Penalty for default.

86. Safe custody of the wills of living persons.

87. This act not to affect the stamp duties on probates and administrations.

88. The registrars to deliver copies of wills, &c. to the Commissioners of Inland Revenue.

89. Stat. 53 Geo. 3, c. 127, ss. 8, 9, repealed in part, as to the Court of Probate.

90. Judge to fix table of fees to be taken by officers of court and by officers of county courts.

91. Taxation of costs.

92. Fees not to be paid in money, but by stamps.

93. Fees collected by stamps, and paid to "The Testamentary Fee Fund Account."

94. Fees paid in money to be paid to "The Testamentary Fee Fund Account."

95. Power to provide for incidental expenses.

96. Compensation to registrars and other officers of existing courts.

97. For the protection of the interests of Viscount Canterbury.

98. The registry of the Prerogative Court of Canterbury to vest in registrars of the court.

99. Compensation to the Rev. R. Moore for building.

100. Time of payment of salaries, &c.

101. Drafts on Testamentary Fee Fund.

102. Power to Lord Chancellor to order surplus of Testamentary Fee Fund to be paid into the Exchequer. If fund insufficient to defray salaries, &c., Commissioners of the Treasury to provide for the same.

103. Rules and orders to be laid before Parliament.

ABSTRACT OF A BILL

To amend the Law relating to Divorce and Matrimonial Causes in England.

Sect. 1. Commencement of act.

2. Jurisdiction in matters matrimonial now vested in ecclesiastical courts to cease, except as to granting marriage licenses.

3. The new court may enforce prior decrees or orders.

4. Pending suits to be transferred to new court.

5. Power to judges whose jurisdiction is determined to deliver written judgments in cases standing for judgment.

6. Jurisdiction over causes matrimonial to be exercised by the Court of Marriage and Divorce, provided that no suit shall be entertained for jactitation of marriage.

7. The Lord Chancellor, the Lord Chief Justice of the Court of Queen's Bench, the Lord Chief Justice of the Court of Common Pleas, the Lord Chief Baron of the Court of Exchequer, and the Judge of her Majesty's Court of Probate constituted by any act of the present session, shall be the judges of the said court, and any three of them, of whom the judge of the Court of Probate shall be one, shall be a quorum.

8. The judge of the Court of Probate shall be called the Judge Ordinary of the said court, and shall have full authority, either alone or with one or more of the other judges of the said court, to hear and determine all matters arising therein, except petitions for the dissolving of a marriage and applications for new trials of questions or issues before a jury, and, except as last aforesaid, may exercise all the powers and authority of the said court.

9. During the temporary absence of the Judge Ordinary, the Lord Chancellor may by writing under his hand authorise the Master of Rolls, or either of the Lords Justices, or any Vice-Chancellor, or any judge of the superior courts of law at Westminster, to act as Judge Ordinary of the said Court of Marriage and Divorce, and the Master of the Rolls, Lord Justice, Vice-Chancellor, or judge of the superior courts shall, when so acting, have and exercise all the jurisdiction, power, and authority which might have been exercised by the Judge Ordinary alone.

10. Sittings of the court.

11. Seal of the court.

12. Officers of the court.

13. Advocates and proctors of any ecclesiastical court in England shall have the exclusive right of practising in the said Court of Marriage and Divorce in all matters which the Judge Ordinary may, without the concurrence of any other judge thereof, hear and determine; and the said advocates and proctors, and also all barristers, attornies, and solicitors entitled to practise in the superior courts at Westminster, shall be entitled to practise as counsel, solicitors, or attornies respectively in the Court of Marriage and Divorce in all cases of petitions for

the dissolving of a marriage, subject to such regulations as may be made by the said court.

14. The Court of Marriage and Divorce to act on the principles of the ecclesiastical courts.

15. Any wife may present a petition to the said court praying for a divorce à mensâ et thoro, on the ground that she has been deserted by her husband, and that such desertion has continued, without reasonable excuse, for two years or upwards; and the court, on being satisfied of the truth of the allegations of such petition, may, if it shall see fit, decree a divorce à mensâ et thoro accordingly, and may make any order for alimony which it may deem just.

16. Court may direct payment of alimony to wife or trustee.

17. In every case of a divorce à mensâ et thoro the wife shall, from the date of the sentence, and whilst the separation shall continue, be considered as a feme sole with respect to property of every description which she may afterwards acquire, or which may come to or devolve upon her, and such property may be disposed of by her in all respects as a feme sole, and on her decease the same shall, in case she shall die intestate, go as the same would have gone if her husband had been then dead: provided, that if any such wife should again cohabit with her husband, all such property as she may be entitled to when such cohabitation shall take place shall be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

18. In every case of a divorce à mensâ et thoro the wife shall, whilst so separated, be considered as a feme sole for the purposes of contract, and suing and being sued in any civil proceeding; and her husband shall not be liable in respect of any engagement or contract she may have entered into, or for any costs she may incur as plaintiff or defendant: provided, that where, upon any such divorce, alimony has been decreed or ordered to be paid to the wife, and the same shall not be duly paid by the husband, he shall be liable for necessaries supplied for her use: provided also, that nothing shall prevent the wife from joining, at any time during such separation, in the exercise of any joint power given to herself and her husband.

19. It shall be lawful for any husband to present a petition to the said court praying that his marriage may be dissolved, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and it shall be lawful for any wife to present a petition to the said court praying that her marriage may be dissolved, on the ground that since the celebration thereof her husband has been guilty of incestuous adultery, or of bigamy, or of adultery coupled with such cruelty as, without adultery, would have entitled her to a divorce à mensâ et thoro, or of adultery coupled with desertion, without reasonable excuse, for two years or upwards; and every such petition shall state, as distinctly as the nature of the case permits, the facts on which the claim to have such marriage dissolved is founded: provided that, for the purposes of this act, incestuous adultery shall be taken to mean adultery committed by a husband with a woman with whom, if his wife were dead, he could not lawfully contract marriage, by reason of her being within the prohibited degrees of consanguinity or affinity.

20. Upon any such petition for the dissolution of a marriage, it shall be the duty of the court to satisfy itself, so far as it reasonably can, not only as to the facts alleged, but also whether or no the petitioner has been in any manner accessary to or conniving at the adultery, or has condoned the same, and shall also inquire into any counter charge which may be made against the petitioner.

21. In case the court, on the evidence in relation to any such petition, shall not be satisfied that the alleged adultery has been committed, or shall find that the petitioner has during the marriage been guilty of adultery, or has been accessary to or conniving at the adultery complained of, or has condoned the same, then and in any of the said cases the court shall dismiss the said petition.

22. In case the court shall be satisfied on the evidence that the case of the petitioner has been proved, and shall not find that the petitioner has committed adultery during the marriage, or has been in any manner accessary to or conniving at the adultery complained of, or has condoned the same, then the court shall pronounce a decree declaring such marriage to be dissolved: provided always, that the court shall not be bound to pronounce such decree if the petitioner shall, in the opinion of the court, have been guilty of unreasonable delay in presenting or prosecuting such petition, or of cruelty towards the other party to the marriage, or of having deserted the other party before the adultery complained of, and without reasonable excuse.

23. The court may, if it shall think fit, on any such decree made on the petition of a husband, make it a condition that the petitioner shall, to the satisfaction of the court, secure to the wife such gross sum of money, or such annual sum of money, for any term not exceeding her own life, as, having regard to her fortune, if any, to the ability of the husband, and to the conduct of the parties, it shall deem reasonable; and for that purpose may refer it to any one of the conveyancing counsel of the Court of Chancery to settle and approve of a proper deed or instrument to be executed by the petitioner and other necessary parties; and the said court may in such case, if it shall see fit, suspend the pronouncing of its decree until such deed shall have been duly executed.

24. In any suit or other proceeding for obtaining a divorce à mensâ et thoro, or a decree of nullity of marriage, and on any petition for dissolving a marriage, the court may, from time to time, before making its final decree, make such interim orders, and may make such provision in the final decree, as it may deem just and proper, with respect to the custody, maintenance, and education of the children the marriage of whose parents is the subject of such suit or other proceeding, and may, if it shall think fit, direct proper proceedings to be taken for placing such children under the protection of the Court of Chancery.

25. Questions of fact may be tried before the court and a jury.

26. Court may direct issues to try any fact.

27. New trials.

28. Affidavit in support of a petition.

29. Service of petition.

30. The court may, if it shall think fit, order the attendance of the petitioner, and may examine him or her, or permit him or her to be examined or cross-examined on oath on the hearing of any petition, but no such petitioner shall be bound to answer any question tending to shew that he or she has been guilty of adultery.

31. Adjournment.

32. Subject to such rules and regulations as may be established as herein provided, the witnesses in all proceedings before the Court of Marriage and Divorce, where their attendance can be had, shall be sworn and examined orally in open court: provided that parties shall be at liberty to verify their respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party or by direction of the court, be subject to be cross-examined by or on behalf of the opposite party orally in open court, and after such cross-examination may be re-examined orally in open court as aforesaid by or on behalf of the party by whom such affidavit was filed.

33. Court may issue commissions or give orders for examination of witnesses abroad or unable to attend.

34. Rules of evidence in common-law courts to be observed.

35. Attendance of witnesses on the court.

36. Penalties for false evidence.

37. Costs.

38. Enforcement of orders and decrees.

39. Power to make rules and orders for procedure.

40. Fees to be regulated.

41. Appeal from the judge ordinary to the full court.

42. Appeal to the House of Lords in case of petition for dissolution of a marriage.

43. Liberty to [innocent*] parties to marry again.

44. Dissolution of marriage to precede action for criminal conversation.

45. Fees to be paid by stamps, except where otherwise ordered.

46. Produce of fees and stamps to be paid to a fee fund account.

47. Compensation to registrars, &c. of existing courts.

48. Payment of salaries, &c.

49. Drafts on fee fund.

50. Power to Lord Chancellor to order surplus of fee fund to be paid into the Exchequer. Deficiency to be paid out of Consolidated Fund.

51. Letters-patent, records, &c. to be transmitted from all ecclesiastical courts.

52. Rules to be laid before Parliament.

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* By amendment of the Archbishop of Canterbury.

Stuart, Glasgow, commission merchant.—*James Williamson*, Edinburgh.—*James Mills*, Glasgow, dyer.—*Virtue & M'Nair*, Glasgow, wholesale fruit merchants.—*Watson & Reid*, Glasgow, painters.

Tuesday, *May* 26.

Bankrupts.

ELIZABETH HILL, Little Moorfields, coach builder, June 8 at half-past 12, and July 10 at 11, London: Off. Ass. Cannan; Sols. Clarke & Morice, Coleman-street.—Pet. f. May 12.

JOHN FLEMING, High-street, Wapping, nautical instrument manufacturer, June 3 at 12, and July 1 at 1, London: Off. Ass. Graham; Sol. Harwood, 10, Clement's-lane.—Pet. f. May 22.

JOSEPH SLAUGHTER, High-street, Borough, Southwark, Surrey, hop merchant, June 9 and 30 at 2, London: Off. Ass. Edwards; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. May 26.

EDWARD BUTLER, Clifford-street, Bond-street, tailor, June 9 and 30 at half-past 2, London: Off. Ass. Edwards; Sols. Taylor & Woodward, 28, Great James-street.—Pet. f. May 23.

SARAH PATRICK, Worcester, butcher, June 6 and 25 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Finch, Worcester; E. & H. Wright, Birmingham.—Pet. d. May 25.

JOHN BARRY, Cashel, near Clonmel, Tipperary, Ireland, linendraper, (also trading at Manchester under the style of John Barry & Co.), June 10 and July 1 at 12, Manchester: Off. Ass. Fraser; Sols. Slater & Myers, Manchester.—Pet. f. May 23.

THOMAS JONES, Aberavon and Cwmavon, Glamorganshire, general-shop keeper, June 11 and July 7 at 11, Bristol: Off. Ass. Acraman; Sols. R. & W. Leonard, Bristol. —Pet. f. May 18.

WILLIAM HENRY SMITH, Swansea, Glamorganshire, brick maker, June 11 and July 14 at 11, Bristol: Off. Ass. Miller; Sol. Taddy, Bristol.—Pet. f. May 14.

ROBERT WORDEN, Wadebridge, St. Breock, Cornwall, builder, June 2 and July 2 at 1, Exeter: Off. Ass. Hirtzel; Sols. Symons & Son, Wadebridge; Stogdon, Exeter.—Pet. f. May 16.

JAMES WEARING, Ulverston, Lancashire, joiner, June 11 and July 2 at 1, Manchester: Off. Ass. Hernaman; Sols. Postlethwaite, Ulverston; Cobbett & Wheeler, Manchester.—Pet. f. May 15.

JOSEPH KEY, Crowle, Lincolnshire, ironmonger, Jnne 10 and July 8 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Carnochan, Crowle; Shackles & Sons, Hull.—Pet. d. May 20.

JOSEPH BOWRON ELGEY, Horton, Bradford, Yorkshire, commission agent, June 12 and July 3 at 11, Leeds: Off. Ass. Young; Sols. Terry & Co., Bradford; Bond & Barwick, Leeds.—Pet. d. May 25.

ROBERT ATKINSON, Sunderland, draper, June 9 and July 7 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sol. Brignal, Durham.—Pet. f. May. 22.

Meetings.

John Jones, Preston, Lancashire, tailor, June 8 at 12, Manchester, last ex.—*Thomas Russell*, Oxford, schoolmaster, June 9 at 12, London, aud. ac.—*Edward Baldwin*, Shoe-lane, City, printer, June 11 at 12, London, aud. ac.—*Hyla Holden*, Walsall, Staffordshire, currier, June 12 at half-past 11, Birmingham, aud. ac.; June 19 at half-past 11, div.—*Thomas Laidler*, Jarrow, Durham, coke burner, June 8 at 12, Newcastle-upon-Tyne, aud. ac.—*Edward Harris Ruddock* and *Henry Ebison*, Bradford, Yorkshire, marble masons, June 6 at 10, Sheffield, aud. ac.—*George North*, Chesterfield, Derbyshire, coal dealer, June 6 at 10, Sheffield, aud. ac.—*Arthur Breare Caister*, Baker-street, Portman-square, saddler, June 16 at 12, London, div.—Sir *Evan Mackenzie*, Bart., *Robert Cameron*, and *Jas. Holmes Boyle*, St. Helen's-place, Bishopsgate-street, merchants, June 18 at 2, London, div. sep. ests. of *Robert Cameron* and *James Holmes Boyle*.—*George King Matthews*, Paternoster-row, bookseller, June 18 at half-past 12, London, div.—*Edwin Parke Quadling*, Ipswich, Suffolk, railway-carriage builder, June 18 at half-past 12, London, div.—*Eleanor Porter*, Newmarket, Suffolk, grocer, June 18 at half-past 1, London, div.—*John Avery Nanscawen Dawe*, *James Hodges Cottrell*, and *Thomas Benham*, Lawrence Pountney-lane, Cannon-street, and Moorgate-street, seed merchants, June 16 at 2, London, div.—*Maurice Meyer* and *Sigismund Seckel*, Newgate-street, City, general merchants, June 16 at 11, London, div.—*R. Clinch*, Salisbury, livery-stable keeper, June 16 at half-past 1, London, div.—*James Gathercole*, Eltham, Kent, envelope manufacturer, June 16 at 2, London, fin. div.—*Thos. Baker* and *Jas. Boswell*, High-street, Poplar, colour manufacturers, June 16 at 2, London, div.—*Saliomia Sterne*, Great St. Helens-chambers, Great St. Helens, merchant, June 16 at 11, London, div.—*William Tweedale*, Ashton-under-Lyne, grocer, June 10 at 12, Manchester, aud. ac.; June 17 at 12, div.—*George Alexander Hewitt*, Derby, chemist and druggist, June 23 at half-past 10, Nottingham, aud. ac. and div.—*Wm. Sheldon Withers*, Mansfield, Nottinghamshire, miller, June 23 at half-past 10, Nottingham, aud. ac. and div.—*Wm. Smith*, Mansfield, Nottinghamshire, licensed victualler, June 23 at half-past 10, Nottingham, aud. ac. and div.—*Thos. Goold*, Birmingham, military ornament manufacturer, June 26 at half-past 11, Birmingham, div.—*Richard Williams*, Liverpool, tailor, June 19 at 11, Liverpool, div.—*Francis Boyd*, Tynemouth, Northumberland, grocer, June 18 at half-past 11, Newcastle-upon-Tyne, fin. div.—*James Armstrong*, Berwick-upon-Tweed, linendraper, June 19 at 11, Newcastle-upon-Tyne, div.—*W. Calvert* and *W. Calvert* the younger, Sunderland, hardwaremen, June 18 at 12, Newcastle-upon-Tyne, div.—*Robert Prudhoe*, Durham, grocer, June 17 at 11, Newcastle-upon-Tyne, fin. div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Joseph Williams, Rochester-terrace, Vauxhall-bridge-road, tailor, June 17 at 12, London.—*Jas. Foord*, Charlton, Dover, Kent, licensed victualler, June 17 at half-past 2, London.—*Alexander Oldfield*, Devonshire-street, Queen-square, Bloomsbury, bookbinder, June 17 at 2, London.—*George Augustus Hamilton Chichester*, York-buildings, Adelphi, commission agent, June 17 at 2, London.—*John Gillam*, Devereux-court, Strand, and *William Henry Taylor*, City-road and Poultry, licensed victuallers, June 17 at 1, London.—*John Beckwith Towse*, Lawrence Pountney-lane, shipowner, June 18 at half-past 1, London.—*William Stapleton*, Wharf, Paddington, contractor, June 16 at 12, London.—*George Lewis*, Cwmbach Aberdare, Glamorganshire, innkeeper, June 19 at 11, Bristol. —*James Taylor*, Bottoms Hall Mill, Tottington Lower End, Lancashire, cotton spinner, June 18 at 12, Manchester.—*John Jones Roberts*, Liverpool, metal broker, June 17 at 11, Liverpool.

To be granted, unless an appeal be duly entered.

Alfred Blackmore, High-street, Shoreditch, hosier.—*R. Collens*, High Holborn, and Talbot Inn-yard, High-street, Borough, licensed victualler.—*Robert Henry Bollin*, King's Lynn, Norfolk, carriage builder.—*Rowland Muckleston*, Hackney-road-crescent, wholesale shoe manufacturer. — *Major Kirkup*, Jarrow, Durham, brick manufacturer. — *William Tweedale*, Ashton-under-Lyne, Lancashire, grocer.—*George Sleddall Wright* and *John Wright*, Liverpool, brewers.—*Thomas Thomas*, Manchester, milliner.—*Jonathan Wright Horsfall*, Leeds, commission agent.—*H. Marlow*, Walsall, Staffordshire, ironfounder.—*Rice Harris* and *Rice Williams Harris*, Birmingham, glass manufacturers.—*John Bishop*, Shrewsbury, Shropshire, cabinet maker. — *James Walker*, Walsall, Staffordshire, bridle cutter.

Petition Annulled.

Edmund Stephenson, Daventry, Northamptonshire, ironfounder.

Partnership Dissolved.

William Edward Buck and *George Edward Baker*, Warwick, attornies and solicitors.

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ADOLPHUS HARRISON FEISTEL, Bucklersbury, wine merchant, June 8 and July 10 at 1, London: Off. Ass. Whitmore; Sol. Barrow, 15, Clayton-place, Kennington.—Pet. f. May 19.

JOHN MARKS, Bell-street, Paddington, and Long-acre, Middlesex, and Melbourne, Australia, coachmaker, June 8 and July 10 at 2, London: Off. Ass. Whitmore; Sol. Jennings, Ipswich, Suffolk.—Pet. f. May 28.

JOHN HILL GOVETT, Dennett-road, Peckham, Surrey, builder, June 10 at 1, and July 13 at 11, London: Off. Ass. Pennell; Sols. Pocock & Poole, 58, Bartholomew-close.—Pet. f. May 16.

WILLIAM EDWARDS, Stamford, Lincolnshire, common brewer, June 16 and 30 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Thompson & Phillips, Stamford; Hodgson & Allen, Birmingham.—Pet. d. May 26.

GEORGE BAXTER and **GEORGE TOONE**, Nottingham, dyers, June 16 and 30 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Deverill, Nottingham.—Pet. d. May 21.

JOHN PRINGLE and **JOHN THURMAN**, Nottingham, lace manufacturers, (trading with William Palmer), June 16 and 30 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. May 27.

WILLIAM TURNER and **THOMAS MASON**, New Mills, near Ashbourne, Derbyshire, cotton spinners, June 16 and 30 at 10, Nottingham: Off. Ass. Harris; Sols. J. & W. Clare, Liverpool; Knight, Birmingham.—Pets. d. May 14 and 19.

GEORGE BATES, (trading under the name of George Bateson), Newport, Monmouthshire, soda-water manufacturer, June 11 and July 14 at 11, Bristol: Off. Ass. Miller; Sol. Bevan, Bristol.—Pet. f. May 18.

JOHN BEST, Halifax, Yorkshire, linendraper, June 16 at half-past 11, and July 14 at 12, Leeds: Off. Ass. Hope; Sols. G. & G. H. Edwards, Halifax; Bond & Barwick, Leeds.—Pet. d. May 28.

ROBERT ATKINSON, York, hairdresser, June 16 and July 14 at 11, Leeds: Off. Ass. Hope; Sols. Smith, York; Clarke, Leeds.—Pet. d. May 26.

JOHN GEORGE THOMAS, Illingworth, Halifax, Yorkshire, damask manufacturer, June 12 and July 3 at 11, Leeds: Off. Ass. Young; Sols. Wavell & Co., Halifax.—Pet. d. and f. May 27.

THOMAS LAWRENSON, Liverpool, shipsmith, June 9 and July 6 at 11, Liverpool: Off. Ass. Cazenove; Sols. Evans & Son, Liverpool.—Pet. f. May 27.

Meetings.

Thomas Harrison, Chancery-lane, Middlesex, and West End, Esher, Surrey, tailor, June 8 at half-past 1, London. last ex.—*George Davy Richardson*, Carlisle, ironfounder, June 9 at 11, Newcastle-upon-Tyne, last ex. and aud. ac.—*John Henry Welchman*, Grove-terrace, Bishop's-road, Paddington, wine merchant, June 10 at 11, London, aud. ac.—*Thomas Russell*, Oxford, schoolmaster, June 9 at 12, London, aud. ac.—*Maurice Meyer* and *Sigismund Seckel*, Newgate-street, City, general merchants, June 10 at 1, London, aud. ac.—*Robert Clinch*, Salisbury, livery-stable keeper, June 10 at half-past 1, London, aud. ac.—*James Glover*, Thames Ditton, Surrey, dealer in wine, June 10 at 12, London, aud. ac.—*Henry Augustus Hope*, West-street, Smithfield, and Oxford-road, Islington, hay salesman, June 10 at 12, London, aud. ac.—*James Triggs*, *William Triggs*, and *Edward Triggs*, Southampton, upholsterers, June 11 at 11, London, aud. ac. —*Owen Evans*, Westbourne-terrace, Hyde-park, surgeon, June 11 at 11, London, aud. ac.—*George King Matthews*, Paternoster-row, City, bookbinder, June 11 at 11, London, aud. ac.—*Edwin Parke Quadling*, Ipswich, railway-carriage builder, June 11 at 11, London, aud. ac.—*William Paxon*, Queen's-road, Bayswater, corn dealer, June 11 at 11, London, aud. ac.—*Thomas Bray*, Chelmsford, Essex, architect, June 11 at 11, London, aud. ac.—*James Choat*, Albert-road, Dalston, tailor, June 9 at 11, London, aud. ac.—*Thomas Henry Cogdon*, Sunderland, plumber, June 11 at 1, Newcastle-upon-Tyne, aud. ac.—*Michael Byers* and *Thomas Byers*, Monkwearmouth Shore, Sunderland, ship builders, June 9 at 12, Newcastle-upon-Tyne, and ac. sep. est. of *M. Byers*; at half-past 12, aud. ac. joint est.—*Robert Elliott*, Blyth, Northumberland, draper, June 9 at 11, Newcastle-upon-Tyne, aud. ac. —*Robert Rumney Charles* and *William Fordyce*, Haughton, Northumberland, paper manufacturers, June 11 at 11, Newcastle-upon-Tyne, aud. ac.—*James Turner*, Newcastle-upon-Tyne, oil merchant, June 10 at 1, Newcastle-upon-Tyne, aud. ac.—*William Tasker* and *John Audus*, Selby, Yorkshire, and Hampstead-road, Middlesex, potato merchants, June 11 at 11, Leeds, aud. ac. joint est., and aud. ac. sep. est. of *W. Tasker*.—*Uriah Wimpenny*, Holme-bridge, Almondbury, Yorkshire, woollen-cloth manufacturer, June 11 at 11, Leeds, aud. ac.—*Richard Williams*, Liverpool, tailor, June 11 at 11, Liverpool, aud. ac.—*Charles Hawkins*, Strand, camp equipage manufacturer, June 22 at 2, London, div.—*Thomas Varty* and *Edwin Henry Owen*, Strand, publishers, June 20 at 11, London, div.—*Frederick Dimsdale*, King's-arms-yard, Coleman-street, City, share dealer, June 9 at half-past 12, London, div.—*Henry Dyer*, Bristol, cabinet maker, June 25 at 11, Bristol, div.—*William James Bebell*, Gloucester, ship builder, July 2 at 11, Bristol, div.—*Robert Taylor*, Sunderland, draper, June 19 at 11, (and *not* June 8, as previously advertised), Newcastle-upon-Tyne, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Hillyard Nichols, Bedford, corn merchant, June 19 at half-past 11, London.—*Nathaniel Levy*, Church-lane, Whitechapel, butcher, June 19 at half-past 1, London.—*Bartholomew Ward*, High-street, Southwark, Surrey, and New-cross, Kent, stationer, June 22 at half-past 11, London.—*John James Tagg*, Reading, Berkshire, innkeeper, June 22 at 1, London.—*David Morriss*, Wisbeach, Cambridgeshire, grocer, June 22 at 12, London.—*Maximilian Low* and *Joseph Low*, Broad-street-buildings, City, merchants, June 19 at 11, London.—*William Calvert* and *William Calvert* the younger, Sunderland, hardwaremen, June 19 at half-past 11, Newcastle-upon-Tyne.—*Joseph Porter*, Salford, Lancashire, screw-bolt manufacturer, June 22 at 11, Manchester.—*Thomas Dillon*, Halifax, Yorkshire, boot maker, June 22 at 12 Leeds.

To be granted, unless an appeal be duly entered.

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Tuesday, *June* 2.

Bankrupts.

JAMES WOODS, Conduit-street, Hanover-square, tailor, June 11 at 12, and July 9 at 2, London: Off. Ass. Bell; Sols. Towne & Dubois, 27, Broad-street-buildings.—Pet. f. May 30.

CHARLES BUDDEN, Basingstoke, Southampton, tailor, June 15 at 2, and July 22 at 11, London: Off. Ass. Nicholson; Sols. Lamb & Co., Basingstoke; Johnson & Co., Temple.—Pet. f. May 30.

GEORGE DURRANT STARLING, Ormesby, Norfolk, grocer, June 16 at 1, and July 14 at 12, London: Off. Ass. Edwards; Sols. Miller & Co., Norwich; Sole & Co., 68, Aldermanbury.—Pet. f. May 19.

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THE JURIST.

LONDON, JUNE 6, 1857.

Mr. Commissioner Holroyd has recently* put a construction upon the meaning of the words "gaming" and "wagering" in the 201st section of the Bankrupt-law Consolidation Act, 1849. By that section no bankrupt is entitled to a certificate if he has lost by any sort of gaming or wagering in one day 20*l.*, or within one year before the filing of the petition for adjudication 200*l.*, or within that period 200*l.* by any contract for the purchase or sale of any government or other stock, where such contract was not to be performed within one week after the contract, or where the stock bought or sold was not actually transferred or delivered in pursuance of such contract. It appeared that in 1854 the bankrupt had lost 20*l.* in one day by time bargains in Consols, and in 1855, 20*l.* in one day by like dealings in Turkish scrip; and the case, therefore, came within the first if any branch of the above section.

The first point decided by the learned commissioner was, that the words "gaming or wagering" in this section applied to all gaming and wagering, and whether at lawful or unlawful games. The same words are used as in the 8 & 9 Vict. c. 109, s. 18, by which "all contracts by way of gaming or wagering shall be null and void;" and there is nothing to confine the terms to any particular kind of games, as in the older acts.

Secondly, it was held that the circumstance of some particular dealings in the funds being mentioned in the second branch of the above section did not exclude from its first branch any dealings in the funds which amounted to gaming or wagering. The learned judge was of opinion that the Legislature intended by the words in the second branch of the section to include dealings which might not amount to gaming or wagering, and not to exclude from the first branch dealings which came within the fair and obvious meaning of those terms, for otherwise the effect would be to give a different meaning to the words "gaming or wagering" as used in the Bankrupt-law Consolidation Act from that which they bear as used in the stat. 8 & 9 Vict. c. 109. (See *Parsons* v. *Alexander*, 5 El. & Bl. 263; *Nicholson* v. *Gooch*, Id. 999; *Grizewood* v. *Blane*, 11 C. B. 538; *Ex parte Copeland*, 1 Bank. App. Cas. 208; and *Mortimer* v. *M'Callan*, 6 M. & W. 58, 70; 7 Id. 20; 9 Id. 636).

Thirdly, that the dealings in Turkish scrip, though not coming within the second branch of the 201st section, or the stat. 7 Geo. 2, c. 8, yet resolved themselves into wagers within the meaning of the first branch, as they had also been held to come within the 8 & 9 Vict. c. 109. (See *Nicholson* v. *Gooch* and *Grizewood* v. *Blane*, supra). The case of *Ex parte Wade*, (2 Jur., N. S., part 1, p. 218; 25 L. J., Bank., 6), in which the Lords Justices granted a certificate after a certain period of suspension, notwithstanding the bankrupt had incurred a loss of 420*l.* on a purchase of some Turkish scrip for a future day, was held not to be binding as a precedent; for Sir J. L. Knight Bruce, L. J., in delivering his judgment, had expressly desired that it should not be so considered, but as founded on the particulars facts of that case alone, which were very special.

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* *In re Thomas Ryder, a Bankrupt*, (June 2).

In the course of his judgment in this case Mr. Commissioner Holroyd also made some important observations with reference to trading upon credit or fictitious capital. "I think it right to state," said the learned judge, "by way of example and warning to others, that a trader in insolvent circumstances, who speculates in consignments of goods in the manner pursued by this bankrupt, is giving way to a species of gaming which requires to be repressed equally with the gaming or wagering within the meaning of the Bankrupt-law Consolidation Act." The course of business pursued by the bankrupt was stated to be this:—He began business as an East India merchant in 1854, being at that time without capital, and in debt; from that period, as soon as he bought goods, he got advances upon them, averaging about 70*l.* per cent., and the goods were then shipped to different parts of the world, through the parties who made the advances. By this system he contrived for a time to be apparently making his payments in due course, but, as he admitted, he was always insolvent, and getting from bad to worse. "The only excuse," said the learned commissioner, "that can be attempted for the bankrupt is the great facility with which persons in this country obtain advances on goods. But is this a legitimate excuse? Is the vendor of goods to be the only sufferer? Must not rather the trader, who, without due caution, and beyond reasonable bounds, takes advantage of this facility, do so at his peril? It appears to me that the system of obtaining advances on goods, however usual it may be with traders, is, unless exercised with great circumspection, most mischievous, and calls loudly for the severe reprehension of this Court. With rising markets such a system may go on for a time, as a trader may then find it easy to raise money upon his purchases, and so sustain his credit for a while, and have the semblance of being well to do in the world; but as soon as a reverse comes—that is, when markets fall—the trader, who has too readily given way to such a course of speculation, if he has no capital to fall back upon to meet losses, must soon sink, and with little or nothing for his unsecured creditors. . . . The amount of credit which a trader thinks fit to take should bear some relative proportion to the amount of his capital." The learned commissioner then quoted with approbation the language used by Pollock, C. B., on a recent occasion, to the effect that the most prolific source of misery in this country arises from persons trading beyond their capital and living beyond their means, and that no man is justified in carrying on his business for a single day beyond the time he is able to meet his liabilities.

The Solicitor-General.—The appointment of Mr. Keating to the office of Solicitor-General is honourable to the Government and to himself. He has the well-earned reputation of being a sound lawyer, an industrious, pains-taking, earnest advocate, and a gentleman of high professional honour. The independent course which he has taken in Parliament affords the best answer to those who assert that lawyers vote with a view to their own interests. To his predecessor, Mr. Stuart Wortley, we beg to offer our sympathy, and to express our best wishes for the speedy re-establishment of his health, so that the public may not long be deprived of his valuable services, both as a legislator and a lawyer.

REGISTRATION OF TITLE TO LAND.

The Report of the Commissioners appointed to consider this subject has been presented to Parliament. The following are the principal features in the registration which they recommend:—

"52. A land register and transfer office for England and Wales will be established in London, under the management of a registrar-general; and branch offices will be also established in different districts throughout the kingdom, subject to the orders and regulated by the authority of the registrar-general.

"53. The registration will extend to all corporeal hereditaments except copyholds, and to advowsons and rent-charges, except, perhaps, tithe rent-charges.

"54. After the establishment of the office all owners or proprietors of land who have the right of possessing or the power of disposing of it in fee-simple will be at liberty to apply for the registration of the ownership thereof; so that such ownership, or the title to the land which is the subject of the same, may thenceforth be manifested by the register alone.

"Supposing this to be accomplished safely and with prudence, the effect of the register, when in complete operation, will be to render it unnecessary, in dealing with land which has so been registered, to look beyond the last ownership appearing on the register.

"55. Registration of title is proposed to be twofold—one which shall at once enable the registered owner to transfer the estate, with a present or immediate statutory title; the other, registration of actual ownership, without the power to transfer an immediate statutory title.

"56. In the second of these cases—that is, in the case of registration unattended with immediate statutory title—the parties applying will be required to produce before the registrar a declaration on oath, stating that they are in the actual enjoyment of the rents and profits, and that they believe themselves to be absolutely entitled to the land in fee-simple, free from all incumbrances, or subject only to such incumbrances as are distinctly specified; and they will also be required to produce, where it can be done, the last instrument of conveyance of the fee-simple, or such other evidence as the registrar may find it necessary to require, with the view of excluding fraudulent claims. Powers also will be conferred on the registrar to give such public and other notices as he may deem necessary of the intention of the parties to have the property registered, in order that they may not wrongfully procure a registration which may be detrimental to other persons.

"But where the title to lands has been ascertained by decree or judgment of any Court whose jurisdiction is competent to determine the right, there the production of such decree or judgment by the person in whose favour it may have been made, or the order of the Court consequent thereon, will alone be sufficient to authorise the registrar to register the ownership of such person, subject to the necessity of making such declaration and serving such notices as above adverted to.

"57. Registration, with immediate statutory title, will take place in those cases where the owner of land desires not only to obtain a title which, with regard to the future, will be manifested and established by the register alone, but a title which, with regard to the past, cannot be disturbed. In this class of cases it will be lawful for the parties seeking registration with the benefits of a warranted ownership to apply to the registrar to have the title investigated with that object. In such cases it will be right that the registrar should cause the title to be fully investigated, at the expense of the parties, by counsel and solicitors; and if he shall be satisfied, on their advice, that the title is a good one, then, on the payment of a small premium, to be calculated by way of a per-centage upon the estimated value of the property in question, he will register the ownership as a warranted one, either in the name of the party applying, or, if the party applying shall prefer it, then in the name of such persons as he may nominate for that purpose. Since the guarantie of the title will be given by a public officer, the premiums payable by the party obtaining such guarantie will be paid into the Exchequer; and the Consolidated Fund will be liable to make a fair and reasonable compensation to any person who may, within the period allowed by law, establish a claim in respect of the estate the title to which has thus been registered with a warranted ownership. A similar provision will also be extended to those cases where land is sold under the decree of a Court, subject to the payment of similar premiums, and to the title being examined and approved of in a similar manner.

"58. In both the above cases, for the convenience of parties, as evidence of their title to the property registered, and for other purposes, a certificate of the fact that it has been registered will be delivered by the registrar to the party applying; and this certificate, duly authenticated by the seal of the office, will be a certificate either of warranted or unwarranted ownership, as the case may be. It will be advisable that this certificate should state on the face of it the name of the registered owner, the lands registered, and the incumbrances, if any, to which they are subject. It will also contain a reference to the indexes which relate to the entry thereof in the books of the registry.

"59. The general effect of the kind of registration here recommended will be, that for the purposes of transfer the registered ownership will at all times represent the fee-simple of the property, and as such it will not be capable of any subdivision or modification into partial or limited estates or interests, except so far as charges and leases may also be admitted to the benefit of registration under the provisions which we shall presently mention.

"60. The right to dispose of and transfer the ownership of land in fee, including the right to charge and lease the same, will belong and be incident to, and in fact be taken as forming part of, the registered ownership.

"61. When the registered ownership has not been warranted, it will be subject to such rights and interests as existed in, or were capable of attaching upon, the property at the time of the first registration, but it will not be subject to any rights or interests arising or created at any period subsequent to the time when the first registry was effected, except charges and leases admitted to the register, and except interests protected by caveat or inhibition, as afterwards mentioned. Thenceforward the title to the property, for the purposes of transfer, will be manifested by the register, and by that alone; and so eventually the only title to land which a purchaser need examine will be the last transfer, as the same is recorded in the registrar's books. At the commencement, indeed, the validity of the title of the first registered owner will still depend, as it does now, on the validity of the party by whom the transfer has been made. But as time passes on this title will gradually strengthen itself, until it has reached a period which, under the operation of the Statute of Limitations, will make it complete, and mature it into an unimpeachable statutory title. Year by year the purchaser will be brought nearer and nearer to this result, and so the expenses which attend the retrospective investigation of title will be gradually diminished, until they reach their minimum point.

"62. When the registered ownership is a warranted ownership, the special advantages to be derived from this system of registration will immediately follow. In such cases the registered ownership will be subject only to other registered rights, and will be exempt at once from all latent claims and interests which may have been created previously to the time when the property is registered. The registered owner will, therefore, have forthwith, for the purposes of transfer, a simple, complete, and indefeasible title.

"63. The registered ownership, whether warranted or otherwise, will at all times represent, for the purposes of transfer, what is usually known as the fee-simple, subject to such charges and leases as may be admitted to the register, and, in the case of ownership not warranted, to the title antecedent to the first registration. In other words, the register will be a substitute for the documentary or parchment title. But the registered ownership, whether warranted or otherwise, will remain subject, as the fee-simple now is, first, to such other rights as are not usually included in the abstract of title—that is to say, those rights which are incident to the property in a physical rather than a legal sense, and those which are presumed to attach on all landed property; and, secondly, also to such rights as may be ascertained by inspection on the land itself, or by inquiry of the occupier. Under the first of these heads we include all easements, such as rights of water, rights of way, rights of sporting, and rights to light, and those interests which are denominated in law profits à prendre, and tithe rent-charges, land-tax, and other taxes and rates of a general character. Under the second we include short leases at rack-rent, where the lessee is in actual occupation of the premises. These are rights which are commonly evidenced by known usage or continued enjoyment, or may be ascertained on the spot by inspection or inquiry; and the title to them is generally so independent of the documentary title to the property that they will necessarily form a partial exception to that which will constitute the registered ownership, whether warranted or not."

"66. Where the parties to a settlement desire it, they will have the power of registering the property in the names of two or more persons as registered owners, with a short note, (the words 'No survivorship' will be sufficient), intimating that in the case of the death of either, the jus accrescendi is not to have place. The effect of this will be, that if one of the registered owners die, no alteration of the ownership can be made until his place is filled up. And as the prevailing instances of fraudulent or improper alienation of stock are those where it has devolved upon one trustee, this simple provision (which will completely prevent the devolution of the registered ownership upon a smaller number of persons than those first registered) will operate as an almost perfect protection to all parties who have or may have any kind of interest in the registered land under any settlement of which the registered owners are trustees.

"67. As a further protection, those parties who are entitled to any unregistered interest, which, as the law now stands, would render their concurrence necessary in a sale of the fee, will be at liberty to enter in the registry a caveat or inhibition against the transfer of the registered ownership. The caveat or inhibition may and ought to be of various kinds, or various in its operation, so as to adapt itself to the different circumstances under which it will be required. To prevent abuse, it will be lodged at the register office, only under proper sanctions, such as the consent of the registered owner, or the order of the Court of Chancery if the registered owner improperly refuse to give his consent; and to secure protection suited to the various conditions of settlements, the caveat or inhibition will be allowed to be so framed as to prohibit the transfer of the registered ownership either for a time specified, or during particular lives, or until the occurrence of a stated event, or without the concurrence of certain parties who for that purpose may be named or referred to as protectors, or under any other condition conformable to law which the parties themselves may think fit to impose."

"69. Where the registered owner shall be a person named such for the purposes of any settlement, then, as between such registered owner and the beneficiaries interested under the settlement, he will not be at liberty to retain the registered ownership, or to remain on the register as registered owner for any longer period or under any other circumstances than according to the present rules of courts of equity he would be entitled to retain the legal estate as if he were a trustee of the fee upon trusts similar to the provisions contained in such settlement, and he will be bound to make a grant of the registered ownership to such person as may be named in that behalf by the beneficiaries.

"70. In order to keep up the chain of title, and to prevent the difficulty which might arise upon the death of any registered owner in obtaining a transfer, we think it will be convenient that for the purposes of this measure, as well as for the purposes suggested by the Chancery Commissioners, a real representative should be appointed, upon whom the registered ownership shall devolve. This representative will be ordinarily the executor; but where an executor has not been named, or where he has died or renounced probate, power will be given to the parties interested to apply to the registrar or to a judge to supply the place of the deceased registered owner, and to enter the name of some proper person in his stead."

"72. Registered transferees without valuable consideration will be subject to the claims of the persons interested in the unregistered ownership, in the same manner as their transferor would have been; but this can be so provided for as not to affect registered purchasers from volunteers without fraud; and a further provision can be added, that it shall not be necessary to inquire whether the registered owner acquired his title as a purchaser or not.

"73. We propose that fraud in obtaining a transfer of the registered ownership shall defeat the title of the person who becomes registered owner by fraud, but that notice of unregistered rights shall not, merely as notice, have any such effect. We think that, though the purchaser in the course of his inquiries, or before he concludes the purchase, has notice of any claims upon the estate, it will not be unjust to deprive the parties interested in such claims of their rights in favour of such purchaser, if their rights are not protected upon the register."

CIRCUITS OF THE JUDGES.

Home—The Lord Chief Baron and Mr. Justice Willes.
Oxford—Barons Martin and Bramwell.
Western—Justices Coleridge and Crompton.
Northern—Barons Watson and Channell.
North Wales—Lord Chief Justice Cockburn.
South Wales—Mr. Justice Crowder.
Norfolk—Lord Campbell and Mr. Justice Williams.
Midland—Justices Cresswell and Erle.

Mr. Justice Wightman will remain in London, and attend to the business to be transacted at chambers.

BILL IN PROGRESS.

ABSTRACT OF A BILL

To make better Provision for the Punishment of Frauds committed by Trustees, Bankers, and other Persons intrusted with Property.

Preamble.

Sect. 1. Whosoever, being a trustee of any property for the benefit, either wholly or partially, of some other person, shall, in violation of good faith, and with intent to defraud, appropriate, convert, destroy, dispose of, or employ such property, or any part thereof, to or for his own benefit, use, or purposes, shall be guilty of a misdemeanour.

2. Whosoever, being a banker, merchant, broker, attorney, or agent, and being intrusted as such with the property of any other person, shall, in violation of good faith, and with intent to defraud, sell, negotiate, transfer, pledge, or in any manner convert or employ to or for his own use such property, or any part thereof, shall be guilty of a misdemeanour.

3. Any person intrusted with any power of attorney for the sale or transfer of any property, who shall fraudulently sell, transfer, and convert such property, or any part thereof, to his own use or benefit, shall be guilty of a misdemeanour.

4. Whosoever, being a bailee of any property, shall fraudulently take or convert the same to his own use, or the use of any person other than the owner thereof, shall be guilty of a misdemeanour.

5. Whosoever, being a director, member, or public officer of any body corporate or public company, shall fraudulently take or apply for his own use any of the money or other property of such body corporate or public company, shall be guilty of a misdemeanour.

6. Whosoever, being a director, public officer, or manager of any body corporate or public company, shall receive or possess himself of any of the money or other property of such body corporate or public company otherwise than in payment of a just debt or demand, and shall wilfully omit to make, or cause or direct to be made, a full and true entry thereof in the books and accounts of such body corporate or public company, shall be guilty of a misdemeanour.

7. If any director, manager, public officer, or member of any body corporate or public company shall wilfully destroy, alter, mutilate, or falsify any of the books, papers, writings, or securities belonging to the body corporate or public company of which he is a director or manager, public officer or member, or make or be privy to the making of any false or fraudulent entry, or any fraudulent omission, in any book of account or other document, with intent to defraud the shareholders, creditors, or other persons interested in the property or effects of such body corporate or public company, every director so offending shall be deemed guilty of a misdemeanour.

8. Whosoever, being a director, manager, or public officer of any body corporate or public company, shall wilfully make, circulate, or publish, or concur in wilfully making, circulating, or publishing, any written statement or account which he shall know to be false in any material particular, with intent to deceive or defraud any member, shareholder, or creditor of such body corporate or public company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any money or property to such body corporate or public company, or to enter into any security for the benefit thereof, shall be guilty of a misdemeanour.

9. Every person found guilty of an offence under this act shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years, or to suffer such other punishment, by fine or imprisonment, or by both, as the court shall award.

10. Nothing in this act contained shall enable or entitle any person to refuse to make a full and complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any court of law or equity, or in the courts of bankruptcy or insolvency; but no answer to any such bill, question, or interrogatory shall be admissible in evidence against such person in any proceeding under this act.

11. Nothing in this act contained, nor any proceeding, conviction, or judgment to be had or taken thereon against any person under this act, shall prevent, lessen, or impeach any remedy at law or in equity which any party aggrieved by any offence against this act might have had if this act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him.

12. No prosecution shall be commenced without the sanction of some judge or the Attorney-General.

13. Receivers of property fraudulently disposed of, against this act, shall be guilty of misdemeanour.

14. Costs of prosecutions.

15. No misdemeanour against this act triable at sessions.

16. Interpretation clause.

17. This act shall not extend to Scotland.

GEORGE WILLIAM GLINISTER, Spring-garden-place, Stepney, and **WILLIAM JOSEPH GLINISTER**, Green-street, Stepney, grocers, June 11 at 11, and July 9 at 1, London: Off. Ass. Bell; Sol. Dewy, 64, Mark-lane.—Pet. f. May 29.

JOHN LOWDEN and **WILLIAM LOWDEN**, Coleshill-street, Pimlico, shipowners, June 15 at half-past 1, and July 20 at 12, London: Off. Ass. Nicholson; Sols. Meredith & Co., 8, New-square, Lincoln's-inn; Harris, Bristol.—Pet. f. May 16.

GEORGE WHIELDON the younger, Wyke House, near Wincanton, Gillingham, Dorsetshire, brickmaker, June 20 at 12, and July 15 at 11, London: Off. Ass. Graham; Sol. Colombine, 79, Basinghall-street.—Pet. f. April 15.

JOHN JOSEPH BUGGINS, Birmingham, silver plater, (now or lately carrying on business with Joseph Wilson), June 15 and July 6 at 10, Birmingham: Off. Ass. Whitmore; Sol. Harding, Birmingham.—Pet. d. May 29.

JOHN BETTS, Bristol, grocer, June 16 and July 20 at 11, Bristol: Off. Ass. Miller; Sol. Heaven, Bristol.—Pet. f. May 29.

GEORGE MATTHEW HALE, Cardiff, Glamorganshire, formerly of St. Arvans, Monmouthshire, victualler, June 15 and July 13 at 11, Bristol: Off. Ass. Acraman; Sol. King, Bristol.—Pet. f. May 28.

THOMAS GREENWOOD and **SAMUEL KING**, Devonport, Devonshire, builders, June 22 and Aug. 3 at 1, Plymouth: Off. Ass. Hirtzel; Sols. Edmonds & Sons, Plymouth; Stogdon, Exeter.—Pet. f. May 25.

ROBERT NOBLE, Whitby, Yorkshire, dentist, June 15 at 12, and July 13 at 11, Leeds: Off. Ass. Hope; Sols. Anderson, York; Blackburn, Leeds.—Pet. d. June 1.

BENJAMIN CHADWICK, Liverpool, watchmaker, June 11 and July 3 at 11, Liverpool: Off. Ass. Turner; Sols. Evans & Son, Liverpool.—Pet. f. May 29.

JOHN EVANS, Spring Vale Works, Whitefield, Lancashire, bleacher, June 18 and July 9 at 12, Manchester: Off. Ass. Hernaman; Sol. Partington, Manchester.—Pet. f. May 27.

RICHARD WALBURN, Howden, near Crook, Durham, grocer, June 12 and July 10 at 11, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Harle & Co., 20, Southampton-buildings, Chancery-lane, London, and Butcher Bank, Newcastle-upon-Tyne.—Pet. f. May 28.

MEETINGS.

Eleanor Porter, Newmarket, Suffolk, grocer, June 12 at half-past 1, London, aud. ac.—*Jesse Catt*, Little Tower-st., City, licensed victualler, June 12 at 1, London, aud. ac.—*Edward Duke Moore*, Southgate, Middlesex, and Minories, London, merchant, June 12 at 2, London, aud. ac.—*Evan Lewis*, Cymmer, Llantrissent, Glamorganshire, victualler, June 18 at 11, Bristol, aud. ac.—*Alfred Charles Wood*, Pershore, Worcestershire, linendraper, June 25 at half-past 11, Birmingham, aud. ac.; July 3 at half-past 11, div.—*Samuel P. Chapman*, Lincoln, grocer, June 17 at 12, Kingston-upon-Hull, aud. ac.—*Ann Oliver*, widow, Walkington, Yorkshire, grocer, June 24 at 12, Kingston-upon-Hull, aud. ac. and div.—*James Choat*, Albert-road, Dalston, tailor, June 23 at 11, London, div.—*Benjamin Callaway*, Southsea, Portsea, Southampton, builder, June 23 at half-past 11, London, div.—*Buchanan Balfour*, Pinner's Hall-court, Broad-street, City, underwriter, June 23 at 12, London, div.—*W. Copeland Strange*, Henley-on-Thames, Oxfordshire, bricklayer, June 23 at 12, London, div.—*Edward Younge*, Holt, Norfolk, stationer, June 23 at half-past 1, London, div.—*J. Paterson Waterson*, Alexander-terrace, Westbourne-park-road, Paddington, builder, June 24 at 1, London, div.—*Thos. Chas. Medwin* and *Cresswell Hall*, Blackfriars-road, Surrey, engineers, June 23 at half-past 1, London, div.—*H. Bunting*, Colchester, Essex, seedsman, June 23 at half-past 11, London, div.—*Edmund Goddard*, London-wall; Old Jewry; Fenchurch-st.; and Aldgate, City, provision dealer, June 23 at 1, London, div.—*Henry Martyn*, Bishopsgate-st. Without, City, woollen warehouseman, June 25 at half-past 12, London, div.—*Bartholomew Ward*, High-street, Southwark, Surrey, and St. James-place, New-cross, Kent, commission dealer, June 25 at half-past 11, London, div.—*Charles Copland* and *Wm. George Barnes*, Botolph-lane, London, and Southampton, provision merchants, June 25 at 11, London, div.—*John Dangerfield* the elder, Kirtley, Suffolk, builder, June 23 at 12, London, div.—*Wm. H. Monroe*, Lincoln, pawnbroker, July 7 at half-past 10, Nottingham, aud. ac. and div.—*Joseph Suckling* the younger, Birmingham, hop dealer, June 26 at half-past 11, Birmingham, div.—*George Spilsbury*, Wolverhampton, Staffordshire, builder, June 26 at half-past 11, Birmingham, div.—*Wm. Baker*, Birmingham, clock maker, June 26 at half-past 11, Birmingham, div.—*W. Williams*, *W. Williams* the younger, and *Thos. R. Williams*, Newport, Monmouthshire, bankers, June 25 at 11, Bristol, fin. div.—*Wm. Parry*, Newtown, Montgomeryshire, tailor, June 24 at 11, Liverpool, div.—*John Holden*, Liverpool, money scrivener, June 23 at 11, Liverpool, div.—*George S. Wright* and *John Wright*, Liverpool, brewers, June 24 at 11, Liverpool, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Charles Higgins, Salisbury, Wiltshire, brewer, June 23 at 11, London.—*James Long*, Portsea, Southampton, rag merchant, June 26 at 11, London.—*Philemon Guy*, St. James's-road, Holloway, builder, June 25 at half-past 12, London.—*Christopher Hall*, Sun-court, Cornhill, City, East India merchant, June 25 at 12, London.—*Wm. Adams*, Huntingdon, miller, June 23 at 1, London.—*F. G. Beale*, Gloucester, bill broker, June 30 at 11, Bristol.—*Joseph Hurdy*, Nottingham, miller, July 7 at half-past 10, Nottingham.—*Thomas Henry Griffiths*, Worcester, coal dealer, July 9 at 10, Birmingham.—*Geo. Coulton*, Radford, Nottinghamshire, common brewer, July 7 at half-past 10, Nottingham.—*Wm. Trevethick*, Lincoln, timber merchant, June 24 at 12, Kingston-upon-Hull.

To be granted, unless an Appeal be duly entered.

H. C. Vanderpant, Maddox-street, Bond-street, dentist.—*John Kennard*, Little Queen-street, Holborn, ironmonger.—*Peter George Foscolo*, Dunster-court, Mincing-lane, City, corn merchant.—*Thomas Chas. Medwin* and *Cresswell Hall*, Blackfriars-road, engineers.—*L. Cressy* and *John J. Cressy*, Turnham-green, Middlesex, butchers.—*Wm. Turing Curtis*, Great St. Helens, City, merchant.—*James Glover*, Thames Ditton, Surrey, dealer in wines.—*George Cowell*, Claypath, Durham, innkeeper.—*John L. Donald*, Newcastle-upon-Tyne, watchmaker.—*Thomas Smith*, Nottingham, licensed victualler.—*John Timmis*, Lilleshall, Shropshire, timber merchant.—*Thomas Lane*, Birmingham, japanner.—*S. B. Woodhouse*, Leicester, dealer in general hosiery.—*James Smith*, Walsall, Staffordshire, marine store dealer.

EXCHEQUER CHAMBER.—Errors from the Queen's Bench, June 13, 15, 16, and 17; from the Common Pleas, June 18; from the Exchequer, June 19, 20, and, if necessary, 22. If the errors from the Queen's Bench are not concluded on the 17th, they will be resumed on the 23rd and 24th.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—Alfred Henderson, of Bristol, in and for the city of Bristol, and county of the same city, also in and for the county of Somerset; Robert Whall, of Chesterfield, Derbyshire, in and for the county of Derby; William Henry Thomson, of Birmingham, Warwickshire, in and for the county of Stafford; John Ward, of New Elvet, Durham, in and for the city of Durham, also in and for the county of Durham; James Frederick Delmar, of Stratton, Cornwall, in and for the county of Cornwall; Ezekiel Evans Fear, of Sherborne, Dorsetshire, in and for the county of Dorset; Frederick William Tweed, of Horncastle, Lincolnshire, in and for the parts of Lindsey, in the county of Lincoln; Francis Thomas Selby, of Spalding, Lincolnshire, in and for the parts of Holland, in the county of Lincoln; William Ascroft, of Oldham, Lancashire, in and for the county of Lancaster; Arthur Haymes, of Leamington Priors, Warwickshire, in and for the county of Warwick; and George Sandford Corser, of Shrewsbury, Shropshire, in and for the county of Salop.

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JAMES HOGGINS, Strand and Strand-lane, auctioneer, (carrying on business with James Hoggins the younger, a minor, under the style of James Hoggins & Son), June 19 and July 21 at 1, London: Off. Ass. Lee; Sol. Stopher, 52, Cheapside.—Pet. f. May 22.

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SAMUEL GROTTICK, Blackfriars-road, Surrey, hatter, June 17 at 1, and July 15 at 12, London: Off. Ass. Stansfeld; Sols. Norton & Co., New-street, Bishopsgate.—Pet. f. May 23.

CHARLES KNOWSLEY, Exeter, draper, June 18 and July 16 at 1, Exeter: Off. Ass. Hirtzel; Sol. Friend, Exeter.—Pet. f. June 1.

Meetings.

Edwin Rodgers, Walsall, Staffordshire, grocer, June 15 at half-past 10, Birmingham, ch. ass. and aud. ac.—*Geo. John Humphreys*, Crown-court, Old Broad-street, City, underwriter, June 19 at 2, London, last ex.; June 26 at 2, div.—*Louis Rochefort*, Broad-street-buildings, City, importer of foreign goods, June 16 at 12, London, last ex.—*Thos. Russell*, Oxford, schoolmaster, June 16 at 11, London, last ex.—*Frank Rennison*, Milk-street, Cheapside, City, merchant warehouseman, June 16 at 3, London, last ex.—*Wm. Gibbon*, Spennymoor, Durham, grocer, June 17 at half-past 11, Newcastle-upon-Tyne, last ex.; at 12, aud. ac.—*Thomas Charles Medwin* and *Cresswell Hall*, Blackfriars-road, Surrey, engineers, June 17 at 1, London, aud. ac.—*Solomon Solomon*, Strand, tailor, June 17 at 12, London, aud. ac.—*Joseph Williams*, Rochester-terrace, Vauxhall-bridge-road, tailor, June 17 at 12, London, aud. ac.—*S. Richards*, Bedford-square, apothecary, June 17 at 12, London, aud. ac.—*William Tent*, Royal Exchange, City, hosier, June 19 at 11, London, aud. ac.—*Leopold Straus*, Fenchurch-street, London, and Rue de Bouloi, Paris, flour merchant, June 23 at 12, London, aud. ac.—*William Adams*, Huntingdon, miller, June 23 at 1, London, aud. ac.—*Joseph Hughesdon* and *Alexander Mackay*, Chundernagore, East Indies, merchants, June 19 at 2, London, aud. ac.; June 26 at 12, div.—*John Peto* and *John Bryan*, Dacre-street, Westminster, and Liverpool, and Willow-walk, Bermondsey, army contractors, June 19 at 11, London, aud. ac.; June 26 at 12, div.—*James Watts*, Norton St. Philips, Somersetshire, innholder, July 2 at 11, Bristol, aud. ac.—*John Hyde*, Stockport, Cheshire, spindle maker, June 16 at 12, Manchester, aud. ac.—*John Holden*, Liverpool, money scrivener, June 16 at 11, Liverpool, aud. ac.—*Geo. Sleddall Wright* and *John Wright*, Liverpool, brewers, June 16 at 11, Liverpool, aud. ac.—*James Bassnett* and *Thomas Bassnett*, Liverpool, opticians, June 17 at 11, Liverpool, aud. ac.; June 29 at 11, div. sep. est. of *James Bassnett;* June 30 at 11, div. joint est.—*William Calvert* and *William Calvert* the younger, Sunderland, hardwaremen, June 17 at 12, Newcastle-upon-Tyne, aud. ac.—*James Armstrong*, Berwick-upon-Tweed, linendraper, June 18 at 1, Newcastle-upon-Tyne, aud. ac.—*Robert Prudhoe*, Durham, grocer, June 16 at 11, Newcastle-upon-Tyne, aud. ac.—*Dennis Denman*, Hartlepool, Durham, licensed victualler, June 19 at 11, Newcastle-upon-Tyne, aud. ac.—*Francis Boyd*, Tynemouth, Northumberland, grocer, June 17 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Isaac Parsons*, Rye, Sussex, printer, June 26 at 12, London, div.—*Lewis Green*, Cranbrook, Kent, grocer, June 30 at 12, London, div.—*Edward Smith*, Isleworth, Middlesex, baker, June 26 at 12, London, div.—*Henry Garnett*, Dover, Kent, stationer, June 26 at 11, London, div.—*John Prebble Fenner*, Bishopsgate-street, City, leather factor, June 26 at 12, London, div.—*Robert Redman* and *Edward Redman*, Mark-lane, City, wharfingers, June 29 at 12, London, div.—*Francis Lloyd Bayley* and *Samuel Millner Barton*, Manchester, small-ware manufacturers, June 19 at 12, Manchester, aud. ac.; June 26 at 12, div. sep. est. of *S. M. Barton*.—*James Barlow*, Bolton-le-Moors, Lancashire, paper hanger, June 19 at 1, Manchester, aud. ac.; June 26 at 1, div.—*John Lowe*, Salford, Lancashire, slate merchant, June 18 at 1, Manchester, aud. ac.; June 26 at 12, div.—*Charles Hargreaves* and *Michael Hargreaves*, Bradford, Yorkshire, whitesmiths, June 26 at 11, Leeds, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Emmerson, High-street, Poplar, Middlesex, and Plaistow, Essex, licensed victualler, June 26 at half-past 1, London.—*Joseph Smith*, Broad-street, Lambeth, dealer in iron, June 27 at half-past 11, London.—*Thomas Moslin*, Cobourg-place, Old Kent-road, carpenter, June 26 at 12, London.—*Leonard Dalton*, Canal-bridge, Old Kent-road, stone merchant, June 26 at 12, London.—*Elizabeth Clarke*, Newport, Monmouthshire, potter, June 30 at 11, Bristol.—*Thomas Richards*, Aberystwith, Cardiganshire, draper, July 7 at 11, Bristol.—*John Hanson* and *James Walker*, Sheffield, coach builders, June 27 at 10, Sheffield.

To be granted, unless an Appeal be duly entered.

Wm. J. White and *Lacey Bathurst*, Regent-street, Westminster, drapers.—*Thomas Hudson*, Liverpool, shipbroker.—*James Taylor*, Tottington Lower-end, Lancashire, cotton spinner.

Petition Annulled.

David Meyrick, Cardiff, Glamorganshire, boot maker.

Partnership Dissolved.

Isaac Sewell, *J. Fox*, and *Henry Sewell*, Gresham House, Old Broad-street, City, attornies and solicitors.

Scotch Sequestrations.

James Ralston, Glasgow, ironmonger.—*Robertson, Brothers*, Glasgow, tea merchants.—*Angus Shaw*, Glasgow, glass merchant.—*John Brown*, Glasgow, merchant.—*W. M'Corkindale*, Rothersay, wine merchant.—*G. Miller*, Alva, Stirlingshire, woollen manufacturer.—*Peter Skeen*, Creeff, Perthshire, architect.

Tuesday, *June* 9.

Bankrupts.

CHARLES CULLEN MERCER, Margate, builder, June 18 at 1, and July 16 at 11, London: Off. Ass. Johnson; Sols. Bischoff & Co., 19, Coleman-street.—Pet. f. June 5.

JOSHUA SHUCKFORD, Studley-terrace, Larkhall-lane, Lambeth, and Clifton-street, Wandsworth-road, Surrey, builder, June 23 and July 16 at 12, London: Off. Ass. Bell; Sols. Lawrance & Co., Old Jewry-chambers.—Pet. f. June 8.

JOSEPH BROOK, Lawrence-lane, London, and Bradford, Yorkshire, stuff merchant, June 18 at 2, and July 24 at 11, London: Off. Ass. Cannan; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, Bucklersbury.—Pet. f. June 5.

WILLIAM LYON, Guildford, Surrey, butcher, June 19 and July 21 at 2, London: Off. Ass. Lee; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. June 5.

THOMAS GREENWOOD and SAMUEL KING, Devonport, Devonshire, builders, June 22 and Aug. 3 at 1, Plymouth: Off. Ass. Hirtzel; Sols. Edmonds & Sons, Plymouth; Stogdon, Exeter.—Pet. f. May 25.

SAMUEL WROTH ANTHONY, Liverpool, commission merchant, June 30 and July 20 at 11, Liverpool: Off. Ass. Morgan; Sol. Pemberton, Liverpool.—Pet. f. June 6.

WILLIAM HASLAM, Sheffield, Yorkshire, horn dealer, June 20 and July 18 at 10, Sheffield: Off. Ass. Brewin; Sol. Unwin, Sheffield.—Pet. d. May 30.

Meetings.

Wm. Petrie Waugh, Upper Grosvenor-street, brickmaker, June 30 at half-past 11, London, last ex.—*Thomas Game*, Coldwaltham, Sussex, corn dealer, June 20 at 12, London,

[*For continuation of Gazette, see p.* 241].

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THE JURIST.

LONDON, JUNE 13, 1857.

There are few questions of greater importance to the administration of justice in this country than the constitution of the appellate jurisdiction, both of intermediate courts and those of the last resort, viz. the Judicial Committee of the Privy Council and the House of Lords.

The important debate upon this subject in the House of Lords has just been published, and shews us in what light the jurisdiction of their own House is viewed by the Peers of the realm, and the remedies which they propose for the evils they either candidly admit or faintly deny.

In this debate some expressions are made use of by a noble lord* which we think have a tendency to create an erroneous notion as to the proper functions of a court of justice. The power of deciding appeals in the last resort is termed by Lord Derby "a privilege" of the House of Lords. "I consider it," he says, "undoubtedly to be a very high privilege, and a most important privilege, and as regards the legal members of your Lordships' House it undoubtedly does vest in them, as being such members, a very important and responsible jurisdiction; and even with regard to the House of Lords *at large*, I am not prepared to say, though substantially the authority is not practically vested in them, that the *apparent semblance of that authority is not in itself a real source of power, of which I should be sorry to see your Lordships deprived.*"

Now, where the people have a right to resort to a tribunal for justice, it seems rather to be the *duty* than the *privilege* of that tribunal to administer justice; and when the jurisdiction is spoken of "as a source of power," that may be a good reason why the House of Lords should be strongly influenced in their desire to retain it, but none why the people at large, for whose use alone tribunals of justice exist, should not remodel, or, if necessary, entirely abolish, the present appellate jurisdiction of the highest resort.

In what respect, then, is the House of Lords, as a court of appeal, deficient? This may, perhaps, be best shewn by a few examples.

Take the present state of the Court of Chancery. Suppose that a case has been heard before one of the Vice-Chancellors or the Master of the Rolls; the parties, or some of them, are not satisfied with the decree. They appeal. It depends merely upon chance whether the appeal will be heard before a single judge, viz. the Lord Chancellor—before two, viz. the Lord Chancellor and one of the Lords Justices, or the two Lords Justices—or before three, viz. the Lord Chancellor and the two Lords Justices. The next and final step, if the decree made is still unsatisfactory, is an appeal to the House of Lords—a tribunal of which few of the people of this country, except lawyers, have a very distinct notion. Now, although it is the *privilege* of all or any of the lords to attend upon appeals, the only lord, even among the law lords, whose *duty* it is to be there in a judicial capacity is the Lord Chancellor; although, in order to obtain a quorum of the House, in the absence of other law lords, he is assisted by the corporeal presence of other noble lords not learned in the law, who attend by rotation in order to *make* up a House, and take no other part in the proceedings. These noble lords, who attend upon such occasions in exercise of the *privilege* of the House, have been appropriately described by Lord Derby as being "rather like the *lay figures* which are introduced in a painter's studio for the purpose of adding to the completeness of the judicial tableau; and in this case certainly they do not perform the part of adding any grace or any force to the tout ensemble of the picture in which they appear*." Now, although the Lord Chancellor often is, and it may be said generally is, assisted by the gratuitous services of other law lords, he may be, and sometimes is, obliged to hear and determine appeals from English or Scottish tribunals consisting of several judges, while he is surrounded, though not assisted, by the presence and countenance of noble lords whom Lord Derby has designated "lay figures."

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* See the Earl of Derby's speech in Mr. Macqueen's report of the debate, p. 9.

Another great evil is, that a noble lord may sit, even alone, to decide upon an appeal from himself. Suppose a case has been heard by one of the Vice-Chancellors or the Master of the Rolls, it is then reversed by the Lord Chancellor: if an appeal is then brought to the House of Lords, the duty of hearing it may devolve upon the Lord Chancellor alone; and it is supposed by some, that hearing an appeal from his own judgment, reversing that of another judge, he will be capable of giving an opinion totally unbiased by what has already taken place. Without, perhaps, going so far as a noble lord, who in the introductory chapter to one of his learned and able works has stated such a proceeding to be, in his opinion, "an appeal from Philip sober to Philip drunk†," we may at any rate observe, that it is of the highest importance, not only that a judge should sit down to decide a case with the most perfect intention of doing what is right, but that there should not be ground for a shadow of suspicion that any preconceived or already expressed opinions, such as most men naturally and almost necessarily feel upon such occasions, should in the slightest degree influence the mind of an appellate judge. But can it be predicated of a judge sitting alone on an appeal from himself, especially when by his own decree he has already reversed that of another judge? We have heard of a pope who passed sentence upon himself for heresy—"Judico me cremari, et crematus est, et sanctus fuit." Self-cremation among popes and among lawyers (who pretend not to be saints) is rare, though perhaps not quite so rare as a reversal by a judge of a court of appeal of his own decree in a court below. Lord Eldon certainly in the House of Lords reversed one of his own judgments. The statistics on the subject would be interesting, and perhaps instructive. Be this as it may, the principle which the House of Lords has so righteously and so inflexibly laid down, that a judge possessing an interest, however remote, in the subject-matter of a suit "shall not be judge in his own cause‡," applies with equal if not with greater force where (to use the words of one perhaps of all others best qualified to give a sound opinion) "the judge is actuated by the strongest possible motives—the passion of self-love—to support his own previous judgment*."

Suppose, again, another case which may occur. An appeal is brought from the decision of the Master of the Rolls, before the Lords Justices, or before the Lords Justices and the Lord Chancellor: suppose in both cases the decree to be affirmed, in the last case contrary to the opinion of the Lord Chancellor; the appeal to the House of Lords might be heard by the Lord Chancellor alone, and he, a single judge, might reverse the decision of three other judges, like himself, of the highest eminence; and in the second case supposed, having almost necessarily an inclination to do so in favour of judicial opinion already expressed, but overruled in a court below. Take the recent case of *Jorden* v. *Money*; that was heard first by the Master of the Rolls, who decided in favour of the plaintiff; it was afterwards heard by the Lords Justices—Lord Justice Knight Bruce and the present Lord Chancellor—and Lord Justice Knight Bruce, differing from Lord Cranworth, agreeing with the decision of the Master of the Rolls, the decree was affirmed. On appeal to the House of Lords, Lord Cranworth retained the opinion he expressed in the court below, in which he was supported by Lord Brougham, Lord St. Leonards being strongly of opinion that the decree of the Court below ought to have been affirmed. The consequence was, the decree was reversed. The opinion, therefore, of three judges—Sir John Romilly, Lord Justice Knight Bruce, and Lord St. Leonards—was overruled by the opinion of two, viz. the Lord Chancellor and Lord Brougham.

Lord St. Leonards, indeed, in his able speech in the House of Lords†, seems to think that the objection to the Lord Chancellor sitting on an appeal from a decree of his own is got rid of when he gets the assistance of other learned lords, or of the judges; but the same motives which he so forcibly expresses in the work we have already mentioned would still operate; and although he may not have the decision entirely in his own hands, he counts one, and the question of reversal or affirmance may turn upon his decision. Thus, if there had been a rule to the effect that a judge could never sit upon an appeal from a case heard before himself in another court, the decree of the Court below in *Jorden* v. *Money*, the opinions of the House of Lords being evenly divided, would have stood unreversed. The remarks we have made with reference to the Court of Chancery are not altogether applicable either to appeals from the Courts of common law or the Scotch Courts; but there is this evil inherent in the jurisdiction of the House of Lords, that a single judge may reverse the well-considered judgment of a numerous and well-constituted tribunal (even with reference, to the latter courts) upon matters of law or practice with which he is not necessarily familiar.

We may sum up the principal objections to the jurisdiction as at present exercised in cases of appeal by the House of Lords as follows:—First, that as the attendance of the law lords is, with the exception of the Lord Chancellor, gratuitous and optional, the House may be represented by a much smaller number of judges than the Court from which the appeal is brought, perhaps even by a single judge. Secondly, the judge who is necessarily present may sit on appeals from his own judgments, not necessarily even assisted by other judges. Thirdly, the House of Lords sits for only half the year, and consequently during the remaining half year there is, so far as the House is concerned, a denial of justice to the subject. And, lastly, in the case of Scotch appeals, it is a tribunal inadequate properly to decide them. These objections we propose to consider somewhat fully hereafter, and to make some observations on the Report of the Lords' Committee, and the proposed bill founded upon it, which, together with some very valuable remarks of his own in the notes, Mr. Macqueen has published with the debate on the appellate jurisdiction of the House of Lords. It is a subject not recently noticed in Parliament, but one which, as it is of importance to the country at large, should not be allowed to drop. Perhaps, in rendering the House of Lords, as it may possibly be, a supreme court of appeal worthy of this country, what Lord Derby is pleased to call the "privileges" of the Peers may not be found altogether inconsistent with the wants and rights of the people.

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* See Mr. Macqueen's report, p. 11.

† Sugd. Prop. 36.

‡ *Dimes* v. *The Proprietors of the Grand Junction Canal Company*, (3 H. L. C. 759); and see especially the remarks of Lord Campbell.

* Sugd. Prop. 37.

† See pp. 65, 66 of the Peers' Debate, by Mr. Macqueen.

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In the case of *The Attorney-General* v. *Calvert*, (3 Jur., N. S., part 1, p. 500), the Master of the Rolls enunciated several important principles relating to the construction of bequests for charitable, educational, and religious objects. An information had been filed by the Attorney-General upon the relation of some of the inhabitants of Hadleigh, in Suffolk, praying an account of various charities, and that it might be declared that persons dissenting from the Church of England (but in other respects proper objects of the charities) were entitled to participate in the benefits of them.

Dr. Pykenham, in the reign of Henry VII, had founded twelve almshouses in Hadleigh for twenty-four poor persons, and had appointed the parson and wardens of the parish-church trustees for the purpose of administering this charity. A chapel was attached to the almshouses, and the founder's will contained this clause—"I will that every holyday in the year from henceforth for evermore the bell in the chappell be tolled every forenoon at eight o'clock, and in the afternoon at four, by one of the said poor men which now is inhabiting and hereafter shall be in that house next unto the chappell on that side next to the parish church . . . and then, without any delay, every one of the said twenty-four poor men and women shall daily resort into the chappell, and there shall continue and remain in prayer every forenoon from eight unto nine, unless that a lawful and reasonable cause, as sickness, impotency, or such other duty, prove lett to the contrary; and that all and every one of them devoutly say every morning, in the hour afore limited, in the same chappell, fifteen pater nosters and fifteen aves, with the creed, so that every one of them in one whole year so continuing may worship all the wounds that our Saviour Christ Jesus suffered for the redemption of sinful man; and over that, those that are learned shall say Mattins Primal and Hours of our Lady, and also the psalm of De Profundis, and once in the week, at their best leisure, the seven Psalms and the Litany, and placebo and dirge for the souls of William Pykenham, their founder . . . . and for all Christian souls." Then followed a power of expulsion for misbehaviour, or for disobedience to the above directions.

There was likewise a bequest of bread to be distributed by the rector and churchwardens to such as attended the church; and it appeared that dissenters had been excluded from both charities.

Upon these facts the Master of the Rolls laid down and applied the following rules:—

First, the intentions of the founder are to be carried into effect as far as they are capable of being so, and so far as they are not contrary to law, using the word "law" in its proper and widest signification, as including the precepts of religion and morality.

Secondly, if the charity be founded to support some religious establishment, or if it seek to promote religious education, (as in the case of *Lady Hewley's Charity*, 9 Cl. & Fin. 335), and if the intentions of the founder be not clearly expressed, or if the instrument of foundation be lost, or never had any existence, the opinions and religious tenets of the founder have a most material bearing on the question of who are the objects of the charity, and in what manner the trusts of it are to be performed. In these cases the presumption, in the first instance, is, that the founder intended to support an establishment belonging to some particular form of religion, and that he intended some particular doctrine of religion to be taught. The next presumption is, that this doctrine was that which he himself supported and professed.

Thirdly, when a charity has been founded for the purposes of secular education, the Court will not, in the absence of expressed intention, assume that the founder intended any particular religious doctrine to be combined with the secular education; but on the contrary, will assume that the object was for secular instruction generally, and will not, by enforcing particular rules relative to religious instruction, prevent all denominations of Christians from obtaining the benefit of the instruction.

Fourthly, where the charity is one of a purely eleemosynary character, the presumption that all classes were intended to participate in the bounty of the founder is so strong, that it requires a clear and distinct expression of unequivocal import to exclude any class of dissenters from the benefits of the charity. Such expression must be found in the instrument of foundation, or, at all events, in immemorial usage, the burthen of proof being thrown on those who seek to exclude. "No doctrine of law or precept of religion," said the learned judge, "establishes that the act of relieving a fellow-creature from the privations or calamities which have befallen him ought to be preceded by ascertaining that he holds opinions in accordance with the true doctrines of Christ as promulgated in the Gospel, or with those which the donor believes to be such."

In conformity with these principles, the Master of the Rolls decided, in the case before him, that dissenters were not excluded from the benefits of the almshouses, if they could conscientiously comply with the directions of the founder, modified by the Reformation and subsequent statutes, and that the trustees could not examine whether they did so sincerely, or whether they were members of the Church of England. With regard to the distribution of bread, it was held that regularity of attendance at church was all that was necessary to entitle the poor to participate in the bounty.

PETITION OF THE PROCTORS OF DOCTORS' COMMONS

AGAINST THE MATRIMONIAL AND TESTAMENTARY JURISDICTION BILLS.

A petition, signed by eighty-seven Proctors of Doctors' Commons, has been presented to the House of Lords, claiming the continuance of their exclusive privileges, or compensation, of which the following is the substance:—

That the office of Proctor is of great antiquity, having been recognised as early as the year 1236, and having been regulated by the canons of 1603; and that the duties of those holding the said office have been expressly regulated by statute; and, amongst other acts, by the acts 3 Jac. 1, c. 5, and 53 Geo. 3, c. 127, of which the last mentioned made express provision for the protection of Proctors, and confirmed and guaranteed them in the enjoyment of exclusive practice.

That under these several regulations and acts of Parliament your petitioners exercise the right of practice in the Ecclesiastical Courts of England, in which are transacted the larger portion of the business relating to the grants of probates of wills and letters of administration, and in which the larger portion of matrimonial causes have hitherto been heard and determined—a right of practice which the Parliament of England has handed down and guaranteed to your petitioners for nearly seven centuries, with exclusive rights and privileges.

That to acquire their exclusive right of practice under the authority of the acts of Parliament aforesaid your petitioners have paid large sums of money on being articled and admitted; have served under articles for seven years; and, at a further large expense and sacrifice, have become notaries public. That many of your petitioners have also paid large sums of money, or have laid themselves under heavy pecuniary obligations, for the purchase of their practices, or are under engagements to pay annuities to former practitioners, or to the widows of deceased partners, or have made family arrangements dependent on the continuance of the present practice, and under the assurance of acts of Parliament by which the same was guaranteed to them.

That the above-mentioned bills now pending in your Right Honourable House would operate most injuriously, and in some instances will be utterly destructive of the professional practice of your petitioners, and may in many instances interfere with the afore-mentioned obligations and arrangements, thereby involving many other persons besides your petitioners in the difficulties and hardships which these measures may inflict if passed into law in their present shape.

That under the 42nd clause of the Probate and Letters of Administration Bill all solicitors and attornies are to be admitted to practise in all contentious matters in the courts in which your petitioners have hitherto had exclusive practice. That the effect of such an enactment would be to deprive your petitioners of a large portion of such contentious practice, without any compensation or corresponding boon.

That by the 43rd clause of the said bill registrars of district courts, some of which are to be newly constituted, are empowered to grant probates and letters of administration in cases where the property may be under 1500*l.*—a measure which would deprive your petitioners of the largest portion of their practice in all non-contentious business, inasmuch as the number of grants of probate and letters of administration under that sum amount to at least seventy-nine per cent. of the entire number granted annually.

That by the 89th clause of the same bill any business that may remain to any of your petitioners will be subject to still further diminution of profit, the said clause being so constructed as to repeal all that portion of the 53 Geo. 3, c. 127, whereby the office of Proctor was made and guaranteed to be an independent and exclusive office, and proposing instead thereof to place the Proctors in the position of agents to attornies and solicitors, in relation to all matters testamentary.

That by clause 40 of the same bill any Proctor of any Ecclesiastical Court is entitled to be admitted a Proctor of the Court of Probate—a provision under which your petitioners' exclusive privileges would be still further prejudiced, inasmuch as a numerous class of practitioners in minor courts, who have gained their present status by shorter terms of service and cheaper means, would be permitted to practise in those courts in which your petitioners enjoy at the present time exclusive right of practice.

That by the same section (sect. 40) the transaction of business in all district registries of the Court of Probate may hereafter be thrown open to "any person," or to "any class or classes of persons," at the discretion of any judge of the court who may "think fit to make any rule or order of the Court to such effect"—an enactment which, your petitioners submit, would be without any valid precedent, and would speedily be so construed as to be destructive of any privileges remaining to your petitioners.

That at the present time a limited number of the senior Proctors possess the exclusive privilege of taking articled clerks—a privilege which those of your petitioners who have not already acquired the same will acquire in due course by seniority. That such advantage, whether in possession or prospect, will be lost to all your petitioners should these bills pass into law as they now stand, inasmuch as all attornies and solicitors will have the right of practice in contentious suits, and their clerks, from their admission, will be entitled to many of the exclusive privileges now enjoyed by your petitioners.

That your petitioners desire to represent to your Right Honourable House that the effect of these measures will be not only to deprive your petitioners of their privileges, but unjustly and causelessly to degrade them from the position of officers of the Ecclesiastical Courts, and of independent practitioners in an honourable profession, to that of mere agents of attornies and solicitors; and they humbly submit to the consideration of your Lordships that such an arrangement is neither calculated to benefit the jurisdiction or the public, inasmuch as it permits that which the act 53 Geo. 3, c. 127, was expressly devised to prevent, namely, a system under which practice was secured to certain firms, by large "allowances" made to attornies and solicitors out of charges levied on the suitors.

That your petitioners further desire to submit, that whilst the present number of Proctors exercising exclusive right is no more than 114, the attornies and solicitors who will be entitled to share their practice, should these bills pass into law, number upwards of 10,000; and they especially solicit your Lordships' attention to the fact, that whilst your petitioners have paid, and continue to pay, large sums of money for the purpose of securing the practice they possess, the bills before your Lordships contain no provisions whereby any payment of any sort is required from the numerous body proposed to be admitted to share their practice, either in the shape of contribution to the revenue of the State, or of contribution to any fund which might hereafter be made available for the purposes of compensation to those who will suffer from these proposed enactments.

And your petitioners would further humbly represent that no substantial reasons can be shewn for the extinction or withdrawal of any of the privileges your petitioners enjoy on the faith and by virtue of the confirmation of several acts of Parliament. That no imputation or suggestion has at any time been made of any want of competency efficiently to conduct the business of the courts to which these bills relate. That, on the contrary, the evidence of the highest authority attests your petitioners' professional skill, their intimate acquaintance with the laws applicable to marriage questions and testamentary jurisdiction, as well as the undeniable character of the exclusive rights of which these bills would deprive them, without any compensation.

And your petitioners further submit, that it would be opposed to the equity of Parliament to subject your petitioners, for whatsoever object, to the penalties and personal individual losses these measures would inflict. They submit to your Lordships, that in the report of her Majesty's commissioners appointed to inquire into the practice "of the Court of Chancery, and the law and jurisdiction of the ecclesiastical and other courts in relation to matters testamentary," it was expressly declared by her Majesty's commissioners, that "*in common justice to the Proctors compensation should be made to them if their business is thrown open;*" and your petitioners further submit, that the justice and equity of this report has been *repeatedly acknowledged, and more especially in a bill submitted to Parliament on this subject in the Session* 1855 *by her Majesty's then Attorney-General, Sir Alexander Cockburn, her Majesty's Principal Secretary of State, the Right Hon. Sir George Grey, and by her Majesty's then Solicitor and now Attorney-General, Sir Richard Bethell, on behalf of her Majesty's present Government.*

Your petitioners therefore humbly pray your Right Honourable House to take the premises into your consideration, and to introduce such provisions into the before-mentioned bills as will continue to your petitioners the sole exclusive right of practice hitherto enjoyed by them in all the testamentary and matrimonial courts, or as will secure to them and to their families just and adequate compensation for the losses which will be inflicted on them should the proposed bills pass into law as they now stand.

[Eighty-seven signatures.]

GENTLEMEN CALLED TO THE BAR.

The following gentlemen have been called to the degree of Barrister at Law:—

Lincoln's Inn.—John William Vernon Blackburn, Esq., (honours in legal examination); Charles Savile Currer, Esq., M. A., Oxford; Walter Deeble Boger, Esq., B. A., Camb.; Charles Beard Izard, Esq., B. A., Camb.; William Henry Whitaker, Esq., B. A., Oxford; William Warren Stretten, Esq.; Alexander Stead, Esq., M. A., Oxford; William John Tapp, Esq.; William Christopher Valentine, Esq., S. C. L., Oxford; Francis Edmund Stacey, Esq., B. A., Camb.; the Hon. George Pepys, M. A., Camb.; Ernest Chaplin, Esq., B. A., Oxford; Richard Copley Christie, Esq., M. A., Oxford; John William Wilkins, Esq.; James Coleman Fitzpatrick, Esq., B. A., Dublin.

Inner Temple.—Joseph Phillips, Esq., M. A.; George Copeman, Esq., M. A.; Edmund Sheppard, Esq.; Richard Hillman Daniel, Esq., B. A.; Thomas Sidgreaves, Esq., B. A.; William Robert Phelps, Esq.; Thomas Sinclair Clarke, Esq., M. A.; Francis Tothill, Esq.; James Muirhead, Esq.; Walter Digby Somerville, Esq.; John Newmarch, Esq., B. A.; Edward L'Estrange Dew, Esq., M. A.; Daniel Makinson Littler, Esq., B. A.; William Wickham, Esq., M. A.

Middle Temple.—Robert Griffith Williams, Esq., M. A., Univ. London; Henry Drake, Esq., B. A., Trin. Coll., Camb.; John Henry Fawcett, Esq., S. C. L., Trin. Hall, Camb.; Edward Keogh, Esq., 9, Inner Temple-lane; John William Hill, Esq., B. A., Trin. Coll., Camb.; John Bramston, Esq., B. C. L., Fellow of All Souls Coll., Oxford.

EXAMINATIONS AT THE INCORPORATED LAW SOCIETY.

TRINITY TERM, 1857.

At the examination of candidates for admission on the roll of attornies and solicitors of the superior courts, the examiners considered the following gentlemen as the only candidates under the age of twenty-six who deserved honorary distinction of the first class:—

Edward Balden, of Birmingham, who served his clerkship to Mr. Samuel Balden, of Birmingham, and Messrs. Hughes, Kearsey, Masterman, & Hughes, of 17, Bucklersbury, London.

Walter Browne, of Lenton, Nottinghamshire, who served his clerkship to Mr. Hugh Bruce Campbell, of Nottingham.

The Council of the Incorporated Law Society have accordingly awarded a prize of books to each of those candidates.

The examiners have also certified that the following candidates passed examinations very little inferior to those who have been reported for prizes:—

1. Joseph Fallows, jun., of 198, Piccadilly, London, who served his clerkship to Mr. Joseph Fallows, of 198, Piccadilly.

1. William Stewart Forster, of Lewisham, who served his clerkship to Messrs. Frere, Goodford, & Cholmeley, of Lincoln's Inn.

2. William Henry Randles, of Ellesmere, who served his clerkship to Mr. George Salter, of Ellesmere.

By order of the Council,
Robert Maugham, Secretary.

Law Society's Hall, June 4, 1857.

Imperial Parliament.

WILLS OF BRITISH SUBJECTS ABROAD.

In consequence of the decision of the Judicial Committee of the Privy Council in *Bremer* v. *Freeman*, (noticed in a previous number), Sir Fitzroy Kelly has introduced into the House of Commons a bill to render valid for all purposes the wills of British subjects, although they may be domiciled abroad at the time of their death. As the subject is one of considerable importance, we give the substance of the debate upon it on Tuesday last:—

Sir *F. Kelly* said, that if a British subject, after making his will in strict conformity with the law, went permanently to reside in any foreign country or colony, the law of which differed from the law of this country, the result would be, that after death his will would be set aside and his intentions defeated; his property would pass to the next of kin, or whoever according to the law of the foreign country would be entitled to it. Any subject of the realm, it was well known, might make his will, provided it were executed by himself and attested by two witnesses, disposing of his whole estate, real and personal; but this law, allowing an Englishman to dispose of his property at his own free will and pleasure, was most unduly controlled by certain decisions pronounced by courts of law, which had introduced a state of things which, in his humble opinion, loudly called for remedy. As an instance he would mention the case of an Irish gentleman, who in the year 1827 was residing in Portugal, and in order to protect his property there, had become naturalised. That gentleman died leaving property both in Portugal and Ireland. With regard to the property in Portugal, he had executed a will according to the form required by the Portuguese law; but in order to dispose of his personal property in Ireland, he had sent for an English attorney to execute a will according to the English form, and that will was executed in strict conformity with English law. The property thus bequeathed was left partly to a legitimate son and partly to a natural child; and after the death of the testator, upon probate being applied for, the application was opposed by the legitimate son, who insisted that the will was void in law, because it had not been made according to the law of Portugal, in which country he insisted that his father had become domiciled. Now, the question of a foreign domicil was one which always gave rise to the most serious difficulties. Whether a person went to a place animo manendi or animo revertendi was always a difficult thing to prove, and all kinds of witnesses—chambermaids, servants, &c.—had to be brought forward to repeat all that they had ever heard with respect to the intentions of the persons whose domicil became a matter of dispute. In the case of *Stanley* v. *Bernes* the learned judge who tried the case laid down the dictum, that persons who remained under the liabilities of British subjects ought to retain also any advantage which that position might give them, and he pronounced in favour of a will executed abroad by a British subject according to the forms of the English law. That decision had, however, subsequently been overruled. In the case of *Collier* v. *Rivas* a British subject had acquired a domicil in Brussels, and made a will according to the English form. It was held in that case, that although the testator had acquired a domicil in Brussels, yet by the Code Napoleon it was provided that a testator might make his will according to the law and form established in the country of which he was a subject. That had continued in force until very lately. In the year 1852 a lady named Calcraft, who had been travelling about the continent, ultimately went to Paris, and resided there for some time with her sister, who afterwards died, and was buried in Père le Chaise. The surviving sister remained some time in France, and while residing there sent to England for an attorney of eminence to make her will. The lady had died a few years subsequently, and the executors of her will had applied for probate in the Prerogative Court in this country. The granting of probate had, however, been opposed on the ground that the will was void, inasmuch as at the time at which it had been drawn up the testatrix had been domiciled in France. The answer to that objection had been, that in accordance with the French law itself the instrument was valid; and in order to establish that proposition a great deal of evidence had been adduced, and the case had been submitted to the consideration of no less than five of the most eminent French jurists, who had arrived at the conclusion that the will was valid, and, as a consequence, entitled to probate. Three eminent French lawyers had, however, come to an opposite decision, stating it to be their opinion that the instrument, in order to be of force, should have been drawn up in accordance with the law of France. They had gone even so far as to maintain that if the lady had not been permanently domiciled in France, but had merely taken up her residence there temporarily, the rule lex loci regit actum would prevail, and that her will, though framed in strict accordance with the law of her own country, would still be ineffectual. The question had finally been submitted to the Judicial Committee of the Privy Council, and they had given a decision different from that which had been pronounced in the case of *Collier* v. *Rivas*, maintaining that the will must, in accordance with English law, be held to be invalid. Now, since he had given notice of the motion which he was about to submit to the House, he had received numerous letters from British subjects resident in Paris and elsewhere, and from attornies practising in various parts of France, upon the subject; and he felt bound to say, that neither in those letters, nor from the communications which he had held with several members of the legal Profession in this country, had he been able to ascertain a shadow of a reason why the will of a British subject, executed in compliance with the forms which English law required to be observed in the framing of such instruments, was to be regarded as invalid because the testator happened to reside in Paris or at Constantinople. One of the most mischievous results of the existing system was, that in every case in which probate of the will of a British subject domiciled abroad was sought to be obtained, and the validity of the instrument was disputed, it became necessary, besides establishing that the testator was of sound mind and had complied with the necessary formalities, to resort to that most perplexing and expensive process of endeavouring to ascertain where the testator had been domiciled at the time when the will had been executed. That was a feature in these cases which had of late years led to a greater amount of litigation than any other with which he was acquainted. In the case of *Lord Hereford*, for instance, it had been proved that he had resided in France for some time, that he had afterwards gone to Milan, thence to Naples, and subsequently he had been domiciled in more than one of the German States. Now, in order to establish the validity of a will made under such circumstances, it became necessary to inquire into the law, not of one alone, but of all those several countries; and the House, he thought, could scarcely fail to be of opinion that the existence of such a state of things was productive of enormous evil. It was in order to provide a remedy for that evil that he proposed, in the bill which he was about to ask for leave to introduce, to enact that all wills, codicils, and testamentary papers executed by a British subject in accordance with the prescribed forms as laid down by the law of England, and duly attested, should be held to be valid in this country, no matter where the testator might have been domiciled at the time at which the instrument happened to have been drawn up; but it was not his intention to interfere with the action of the laws of any foreign State. He might also observe, that the bill contained a proviso, which he had introduced into it after considerable doubt, the object of which was, that the measure should not affect any wills which now formed the subject of judicial investigation, or which, owing to the decease of the testator, were already in full legal operation. Should his bill pass into a law, it would have the effect of restoring that liberty to British subjects of which they had been deprived by a series of decisions, utterly unfounded upon any principle of justice between man and man.

Mr. *Malins* seconded the motion. The evil which the bill was designed to correct was one of immense magnitude, and he regretted that in the late case of *Freeman* v. *Bremer* the Judicial Committee of the Privy Council could not find reasons for coming to an opposite conclusion. The question was, whether, for the disposal of his property, an Englishman dying in a foreign country was to be considered an Englishman or a foreigner. The question of domicil which was raised in such cases was one of the most difficult as well as expensive that could come before the Courts. A case was now going on in the Court of Chancery in which a gentleman, of very large property, of peculiar and eccentric habits, who died four or five years ago, left the bulk of his property, amounting to about 100,000*l*., to found a charity in the town of Southampton. It was supposed at first that the only question for the Court was, whether the words were sufficient to found a charity; but as it appeared he had resided in France for many years, at first at Boulogne and then at Paris, the question arose whether, although his will was made according to the English form, he had not acquired a French domicil. A special examiner was appointed to take the evidence on this subject; and to illustrate the difficulty and expense of these inquiries, he might state, that the examiner had been engaged for fourteen days in England and forty-two in France in taking evidence on the question whether that English gentleman, who had resided in France for a number of years, had not thrown off his English and acquired a French domicil. He was afraid that after the decisions of the Privy Council, declaring some of these wills invalid, it would be going too far to say that the bill should be retrospective in its operation; yet it might be worthy of consideration whether Parliament could not justly go even to this extent, and he should greatly rejoice to see the measure made retrospective if it could be justly done.

The Attorney-General said that the subject to which his hon. and learned friend had invited attention was one of no common importance, and he trusted that it would not be treated by the House as a legal question, but one of general importance, which every member of that House was competent to appreciate and form an opinion upon. He did not intend to oppose the introduction of the bill, because the subject was unquestionably one deserving of discussion; but he must entreat the attention of the House to the difficulties of the subject, and the qualifications with which his vote in favour of leave to introduce the bill must be given. They would all agree with him that it was extremely desirable for the jurisprudence of every country to preserve untouched and unimpaired those maxims of law which were common to the jurisprudence of other countries. Civilised nations were agreed upon one question of perpetual recurrence, and great inconvenience would be occasioned if the rule of one country were contrary to that of another. The origin of the rule that had been impugned by his hon. and learned friend was a general maxim that had prevailed in Europe from the earliest time—namely, from the earliest establishment of the principles of Roman law. That maxim was expressed in the words, "Mobilia sequuntur personam," which meant that the personal estate of the testator accompanied him wherever he might reside and become domiciled, and thence he acquired the right of disposing of it, and dealing with it according to the law of that country. In consequence of that rule of law, if a man died in a foreign country in which he might be domiciled, the distribution of his personal property fell naturally within the jurisdiction of the country in which he was residing at the time of his death. This was a universal rule in civilised Europe, and the judge of the country in which the testator died therefore became the person to determine the question of testacy or intestacy. They could not withdraw the question of testacy and intestacy from the judge without impairing the force of the maxim to which he had referred. If there were a common consent on the part of all the nations of Europe to adopt the rule recommended for England by his hon. and learned friend, there might be less objection to this proposition; but, while there was a want of that common consent, the making of an exceptional experiment in England was much to be deprecated. He (the Attorney-General) was opposed to the introduction into this country of a rule peculiar to itself that would derogate from the universally-recognised maxim of jurisprudence handed down to us through a long succession of ages, and which undoubtedly had the great advantage, that every nation in Europe knew with certainty the principle that governed this particular case. There was an inconvenience which the hon. and learned gentleman's bill would not in the smallest degree touch—he meant the present uncertainty of the law in determining questions of domicil. He agreed that the question of domicil of necessity entered into the application of the rule of jurisprudence to which he had alluded; but the difficulty to which the attention of the Legislature ought to be directed would be the furnishing of a rule by which questions of domicil might be decided, rather than to the making of any attempt to engraft on the jurisprudence of this country an exception to the general maxim above described. Some cases of hardship would always accompany adherence to a general rule; but, on the other hand, would there be no practical inconvenience attending the introduction of exceptional legislation? Assuming that we adopted for ourselves a different rule from that followed by other nations, if a person domiciled in France died possessed of property in the French funds and also in the English funds, the result would be that we should be claiming the right here to give effect to a will operative according to our exceptional law, but of no validity according to the French law; and tenfold the amount of difficulty and inconvenience at present experienced would ensue from the conflict between the institutions of the two countries. Thus the evil which this measure sought to remedy would only be aggravated by its adoption. He regretted that his hon. and learned friend, who had striven with all his great abilities to enforce his views on the Privy Council, but without success, should not have allowed a longer time to elapse before he appealed to that House; because the decision of the Privy Council was in strict conformity with the judgments of all the eminent men on the bench who were qualified to determine the question at issue. It was most inconvenient that a decision, which at the moment naturally appeared to be wrong in the eyes of the advocate against whom it was given, should be brought before Parliament while the excitement to which the subject had given rise still precluded the cool deliberation essential to wise legislation. He was sorry, therefore, that the hon. and learned gentleman proposed to introduce this bill, contemplating, as it did, the establishment in this country of a rule that would not be common to the rest of Europe. It was most desirable, now that the interchange between different countries was so rapid, easy, and general, that there should be as few conflicts between their respective systems of jurisprudence as possible, and that the judgments of the Courts of one nation should be readily accepted by the Courts of another. The Government were not, however, disposed to resist the introduction of the bill, although, for the reasons he had assigned, they could not promise the hon. and learned gentleman their co-operation in passing it through its subsequent stages.

BILL IN PROGRESS.

A BILL

To amend the Act 7 *&* 8 *Vict. c.* 111, *for facilitating the winding up the Affairs of Joint-stock Companies unable to meet their pecuniary Engagements, and also the Joint-stock Companies Winding-up Acts,* 1848 *and* 1849.

Whereas it is expedient to amend the act 7 & 8 Vict. c. 111, and also the Joint-stock Companies Winding-up Acts, 1848 and 1849, and also to make provision for the more equal distribution amongst creditors as well of the assets to arise from the separate estates or contributions of shareholders in any company as of the joint assets thereof: be it therefore enacted &c. as follows:—

Sect. 1. In all cases in which an order heretofore has been, or hereafter shall be, made for the dissolution and winding up or for the winding up of any company, it shall be lawful for the judge or master charged with the winding up of any company, at the instance of any creditor of such company or otherwise, in all cases in which it shall appear expedient, and or the benefit of the parties interested, in and by the advertisement for proof of debts required by the 72nd section of the Joint-stock Companies Winding-up Act, 1848, or by subsequent advertisements, or by notice transmitted to each of the creditors by post, as directed by the said two before-mentioned acts, from time to time to call upon the creditors of the company to meet before such judge or master at such time and place as shall be fixed by him, for the purpose of appointing one or more person or persons other than the official manager to represent all the creditors of the said company in and about the said proceedings before him, or in and about so many and such of the same proceedings as to such judge or master shall from time to time seem expedient; and it shall be lawful for two-thirds in value of the creditors present at such meetings, whose debts shall have been proved before the said judge or master, or who shall previously to such meeting have lodged an affidavit of their debt before him, and who would be entitled to vote in the choice of assignees under a bankruptcy, by themselves or by some person authorised by any letter or writing under the hand of such creditor, and which letter or writing shall require no stamp duty to be paid thereon, to choose some person or persons to represent all the creditors of any such company accordingly; and the proceedings of such meeting shall be conducted before and by the said judge or master in the same manner as would be the case if the said creditors were proceeding to the election of assignees in bankruptcy; provided that the said judge or master may reject any person or persons so chosen who shall appear to him unfit to be such representative or representatives, or may remove any such representative or representatives, and upon such rejection or removal a new choice of a representative or representatives shall be made in like manner; and from and after the issuing of any such advertisement as aforesaid all the creditors of the said company shall be deemed parties to the winding up: provided always, that in case such company shall be or have been adjudged bankrupt, the assignees of the estate and effects of such bankrupt company shall be deemed and taken to be, and they are hereby constituted, (without such advertisement or meeting as hereinbefore mentioned), the representatives of the creditors for the purposes of this act, and shall have and exercise the same rights and powers as are hereby given to or vested in such representative or representatives; and provided also, that if any such representative or representatives of the creditors shall have been chosen or appointed in the matter of the winding up of any company before the appointment of assignees under the adjudication of bankruptcy against the same company, then upon such appointment of assignees the rights, powers, and authorities of such representative or representatives shall cease and determine, and the same rights, powers, and authorities shall thereupon become vested in, and may lawfully be had and exercised by, such assignees as aforesaid; and such representative or representatives shall be entitled to his or their reasonable costs in the matter of the winding up of such company.

2. Whenever any such company heretofore has been or hereafter shall be declared bankrupt, and no winding-up order shall have been made, the assignees may, with the leave of the Court of Bankruptcy first obtained, after notice to such creditors, and subject to such condition (if any) as to obtaining the consent of creditors, or any proportion of them, as the said court shall think fit to direct, and whether the whole of the assets of such company shall have been collected or converted or not, and having regard to the sufficiency of the assets of the company for payment of the debts or liabilities of such company, and also to the solvency and means of the several shareholders or members of such company, or any one or more of them, or to such other matters as the said court may deem material, accept and take from all or any or either of the shareholders or members of such company such reasonable sum or sums in discharge and satisfaction of the liability of all and every the shareholders and members, or any or either of them, to the debts and liabilities of such company, in such manner and at such times as the assignees for the time being of the estate of such company shall think fit, or make any other compromise, composition, or other arrangement in the matter; and all such sum or sums as shall be payable thereunder shall be paid to and received by the official assignee, and shall be applied as part of the estate and effects of such company; and the said court shall, at the request of the assignees for the time being of such company, give to the several shareholders and members, or such of them as shall be so discharged, a certificate under the hand and seal of the com-

missioner, setting forth the circumstances of such discharge, so far as he may deem the same material, and such certificate shall thenceforth operate to all intents and purposes as an absolute release to the shareholders and members to whom the same shall relate, and may be by them pleaded and used in bar and in discharge of any action, execution, or other proceeding by any creditor whose debt or claim is by law proveable under such bankruptcy; and every such shareholder and member shall be entitled, as between himself and the other shareholders or members of the company, and in account with the official manager, if any shall have been appointed, to credit in respect of such sum or sums as shall by such certificate be declared to have been paid by him.

3. It shall be lawful for such representatives or representative as are hereinbefore mentioned to join and concur or take part in all the proceedings in and about the winding up of the said company, or such of the same proceedings as the judge or master shall deem expedient for the interest of the creditors, and also, subject as hereinafter is mentioned, and so far as the creditors of the said company are concerned, to take part in, consent to, or approve of any compromise, composition, or arbitration, or other arrangement which the official manager may propose to make or enter into, either with the debtors or creditors of the said company, or with the contributories or alleged contributories thereof, or any or either of them, as well between themselves as between themselves or either of them and the creditors of the said company, or otherwise, in respect of its estate or affairs, and which compromise, composition, or arbitration the official manager is hereby authorised, subject to such consent and leave as herein and hereinafter mentioned, to make and enter into; and all the creditors of the said company, whether their debts shall have been then proved or not, shall, subject to the provisions hereinafter contained, be fully and effectually bound by the acts of such representatives or representative as to all such matters as are authorised by this act.

4. No such compromise, composition, arbitration, or other arrangement as in the last section mentioned shall be valid, as against the creditors of the company, unless the same be made with the consent of such representatives, and with leave of the judge or master; and every such compromise, composition, arbitration, or other arrangement shall be subject to such conditions (if any) as to obtaining the consent of creditors, or any proportion of them, as the said judge or master shall think fit to direct.

5. All orders, directions, reports, and other proceedings of or before the judge or master under this act shall be subject to the appeals given by the two aforesaid Joint-stock Companies Winding-up Acts, 1848 and 1849; and all orders, directions, reports, and other proceedings of or before the Court of Bankruptcy under this act shall be subject to the appeals given by the Bankrupt-law Consolidation Act, 1849.

6. No creditor or claimant shall be prejudiced or affected by any compromise, composition, arbitration, or other arrangement hereinbefore authorised, or by carrying the same into effect, as to his right or remedy against any person other than the company and the members and contributories thereof.

7. When any such company has been or shall be adjudicated bankrupt, then, if or so soon as creditors' assignees shall have been appointed, or, when any such company shall not have been or be adjudicated bankrupt, then after the judge or master shall by advertisement have called on the creditors to appoint a representative or representatives as hereinbefore mentioned, no such action as is mentioned in the 73rd section of the said Joint-stock Companies Winding-up Act, 1848, shall be commenced or proceeded with, otherwise than for the purpose of making the company bankrupt, nor shall any execution or scire facias be issued or proceeded with against the person, property, or effects of any member or members for the time being of such company, or any former member or members thereof, except by leave of the Court of Bankruptcy where such company has been made bankrupt before an order shall have been made for winding up the company, or of the said judge or master where such company has not been made bankrupt before such order shall have been made; and no time which shall elapse after the appointment of creditors' assignees as aforesaid, or after the said creditors shall be so called on, shall be reckoned as part of the time which by virtue of any statute of limitations or otherwise is or shall be limited for commencing or prosecuting any action, suit, step, or proceeding against the company, or the persons being members or contributories thereof, with reference to or in respect of any debt or demand which might be discharged or affected by any such compromise, composition, arbitration, or other arrangement as is hereinbefore mentioned.

8. On the hearing of the application of any creditor of any such company for leave to commence or proceed with any such action, (otherwise than as aforesaid), or to issue or proceed with a writ of scire facias or execution as aforesaid, it shall be a sufficient ground for refusing such leave if the person against whom or against whose property or effects such action, scire facias, or execution shall be sought to be commenced, issued, or proceeded with, shall give or shall have given to the official assignee, in case such company shall have been declared bankrupt before an order shall have been made for winding up the company, or to the official manager in case such company shall not have been declared bankrupt before such order shall have been made, security to the satisfaction of the Court of Bankruptcy, or of the master or judge, as the case may be, for payment of such sum or sums of money, and upon such terms, and to be applied in such manner, as the said court or the said master or judge shall require, having regard to the debts and liabilities of such company and to the circumstances of the case, and upon payment of such costs as the said Court of Bankruptcy or the said master or judge may think fit: provided always, that such security to the official manager shall be subject to the consent of the representative (if any) for the time being of the creditors of such company, or if there shall be no such representative at the time of giving such security, then the same shall be subject to the consent of the representative of such creditors when appointed.

9. The provisions contained in the 38th, 40th, and 48th sections of the Joint-stock Companies Winding-up Act, 1848, shall extend to and comprise creditors or persons who have claimed to be creditors of the said company, as well as contributories and alleged contributories; and after the judge or master shall have called on the creditors to appoint a representative or representatives, as hereinbefore mentioned, such creditors and persons who have claimed to be creditors shall be entitled to attend the proceedings, and to submit such proposals and to inspect such books as in the said sections of the said act are mentioned.

10. Every order for payment of money made or to be made by the judge or master under and by virtue of the said Joint-stock Companies Winding-up Acts of 1848 and 1849, or either of them, or of this act, shall be deemed and taken to be an order of a court of equity within the meaning of the 6th section of the 13 & 14 Vict. c. 29, intituled "An Act to amend the Laws concerning Judgments in Ireland," and such order shall be capable of being registered under the provisions of the said section, upon an affidavit containing the several particulars required by the said 6th section of the said last-mentioned act; and the official manager shall be deemed, under any such order, to be the creditor of any contributory against whom such order has been or shall be made; and the registration of any such affidavit shall operate and to the like manner and effect as is enacted and provided in the 7th section of the last-mentioned act respecting affidavits made and registered under the 6th and 7th sections of such last-mentioned act.

11. It shall be lawful for the judge or master of the High Court of Chancery in England, acting in the winding up of any company, to appoint any person in Ireland, and it shall be lawful for the Master of the High Court of Chancery in Ireland, acting as aforesaid, to appoint any person in England, other than or in addition to the commissioners, judges, and other persons named in the 20th section of the Joint-stock Companies Winding-up Act, 1849, to be commissioners for the purposes and with the same powers and authorities as in the said 20th section of the last-mentioned Winding-up Act are named or referred to in that behalf.

12. This act shall be taken and construed as a part of the said Joint-stock Companies Winding-up Acts, 1848 and 1849.

13. The words "shareholder" and "member" shall be severally taken to include all contributories or alleged contributories within the meaning of the said Joint-stock Companies Winding-up Acts, 1848 and 1849, and also all persons who may apprehend or desire to be discharged from responsibility in respect of the debts, liabilities, or obligations of the company.

14. In citing this act in other acts of Parliament, and in legal instruments and in legal proceedings, it shall be sufficient to use the expression "The Joint-stock Companies Winding-up Amendment Act, 1857."

aud. ac.—*Thomas White* the younger, Portsmouth and Gosport, Southampton, shipbuilder, June 20 at 11, London, aud. ac.—*Bartholomew Ward*, High-street, Southwark, Surrey, and St. James-place, New-cross, Kent, stationer, June 22 at 11, London, aud. ac.—*Charles Copland* and *Wm. George Barnes*, Botolph-lane, London, and Southampton, provision merchants, June 22 at 11, London, aud. ac.—*Christopher Hall*, Sun-court, Cornhill, East India merchant, June 22 at 11, London, aud. ac.—*Joseph Oswald Robson*, Castle-street East, Oxford-street, carpenter, June 22 at 11, London, aud. ac.—*James Bassnett* and *Thomas Bassnett*, Liverpool, opticians, June 29 at 11, Liverpool, aud. ac.—*Thomas Gibbs*, Burslem, Staffordshire, publican, July 10 at half-past 11, Birmingham, aud. ac.—*James Lea*, Birmingham, builder, July 10 at half-past 11, Birmingham, aud. ac.—*William Hertzig*, Hanley, Staffordshire, manufacturing chemist, June 19 at half-past 11, Birmingham, aud. ac.—*James Cooper*, Ryde and Wootton Bridge, Isle of Wight, grocer and tea dealer, July 1 at half-past 11, London, div.—*John Walter Rymill*, Paul's Wharf, Upper Thames-street, paper agent, July 1 at 11, London, div.—*Henry Wheeler*, Derby, painter, June 30 at half-past 10, Nottingham, aud. ac. and div.—*R. Clark*, Liverpool, miller, July 2 at 11, Liverpool, div.—*Wm. Gibbon*, Spennymoor, Durham, grocer, June 30 at 11, Newcastle-upon-Tyne, div.—*Samuel M. Lotinga* and *Noah S. Lotinga*, Newcastle-upon-Tyne and North Shields, merchants, July 2 at 12, Newcastle-upon-Tyne, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Elizabeth S. Small, Fonthill-place, Clapham-road, Surrey, plumber, June 30 at 11, London.—*Charles Robinson*, Strand, masonic jeweller, July 1 at 11, London.—*John Chalcroft*, Norfolk-road, Westbourne-grove North, Paddington, builder, July 1 at 12, London.—*Wm. Bailey* the younger, Buttesland-street, Hoxton, carver, July 1 at half-past 11, London.—*G. Brooke*, Leadenhall-market, London, and Windsor, Berkshire, provision dealer, June 30 at half-past 2, London.—*J. Keywood* the younger, Littlehampton, Sussex, plumber, June 30 at half-past 1, London.—*Thomas Wells*, Dorset-place, Clapham-road, Surrey, grocer, June 30 at 11, London.—*Thomas White* the younger, Portsmouth and Gosport, Southampton, shipbuilder, June 30 at 12, London.—*James Armstrong*, Berwick-upon-Tweed, linendraper, June 30 at 11, Newcastle-upon-Tyne.—*David Cheetham*, Rochdale, Lancashire, cotton spinner, July 2 at 2, Manchester.—*Marmaduke Chaplin*, Kingston-upon-Hull, auctioneer, July 1 at 12, Kingston-upon-Hull.—*R. W. Neave*, Market Rasen, Lincolnshire, and Sheffield, Yorkshire, miller, July 1 at 12, Kingston-upon-Hull.—*Joseph Hardy*, (and not *Hurdy*, as before advertised), Nottingham, miller, July 7 at half-past 10, Nottingham.

To be granted, unless an appeal be duly entered.

Joseph Johns, Hertford, innkeeper.—*Edward Clark Lone*, Cullum-street, City, oil merchant.—*Robert E. Key*, Thorney, Cambridgeshire, grocer.—*John W. Clarke*, Whittlesea, Isle of Ely, Cambridgeshire, seed merchant.—*Robert Blore*, Great Russell-street, Bloomsbury, picture dealer.—*William Miller*, Whitechapel-road, coffee-house keeper.—*George Wm. Jones*, Oxford-street, milliner.—*George J. Wagstaff*, Whitechapel-road, watchmaker.—*John Dickson*, Fleet-street, London, and Swansea, Glamorganshire, builder.—*Andrew Hind*, Pleasant-row, Pentonville, tea dealer.—*Wm. D. Eves*, Seven Sisters-road, Holloway, and Old-street, St. Luke's, victualler.—*Thos. Pagett*, Birmingham, zinc worker.

Partnerships Dissolved.

Richard A. Poole, *Edward G. Powell*, and *Wm. Thearsby Poole*, Carnarvon, attornies and solicitors.—*Wm. L. Harle*, *John A. Bush*, and *Arthur Gaskell*, Southampton-buildings, Chancery-lane, and Newcastle-upon-Tyne, attornies and solicitors, (so far as regards the said Arthur Gaskell).

Scotch Sequestrations.

John Colquhoun & Co., Paisley, bleachers.—*Robert Reid*, Glasgow, baker.—*Walter Jamieson*, Paisley, wood merchant.—*Robinson & Niven*, Greenock, drysalters.

COURT OF QUEEN'S BENCH.

Trinity Term.—20 Victoria.—*June* 4, 1857.

This Court will, on Saturday, the 13th, Monday, the 15th, Tuesday, the 16th, Wednesday, the 17th, Tuesday, the 23rd, Wednesday, the 24th, Thursday, the 25th, and Friday, the 26th days of June instant, hold sittings, and will at such sittings commence with the country new trials then pending in the New Trial Paper, after which the Court will proceed with the Special Paper, and if there be any time remaining, the Crown Paper will then be taken.

The Court will also hold a sitting on Saturday, the 4th day of July next, for the purpose of giving judgments only.

Witnesses before the House of Lords.—A report has been published by the select committee appointed to consider and report on the expediency of altering the present mode of administering oaths to witnesses to be examined by committees of the House. The committee have unanimously agreed to the following resolutions:—"That it is expedient to discontinue the practice of examining witnesses on oath before committees in all cases in which the administration of an oath does not appear to the House necessary for the purpose of the inquiry. The committees ought therefore in future to examine the witnesses without their having been previously sworn, except in cases in which it may be otherwise ordered by the House. That as the inquiries before committees on private bills involve questions of fact, in which private interests are concerned, it is expedient that such committees should be directed by a standing order to examine witnesses on oath, except in cases in which it may be otherwise ordered by the House."

Member returned to serve in Parliament.—George Skirrow Beecroft, Esq., for the borough of Leeds, in the room of Robert Hall, Esq., deceased.

Commissioners to administer Oaths in Chancery.—The Lord Chancellor has appointed the following gentlemen to be Commissioners to administer oaths in the High Court of Chancery:—Ezekiel Evans Fear, of Sherborne, Dorsetshire; and Edward Wates, of Gravesend, Kent.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—William Brittan, of Bristol, in and for the city of Bristol and county of the same city, also in and for the county of Somerset; Robert Cook, of Bath, in and for the city of Bath, also in and for the county of Somerset; William Cockerell, of Cambridge, in and for the county of Cambridge; Edward Evans, of Chester, in and for the city of Chester, also in and for the county of Chester; Charles Ehret Grover, of Hemel Hempstead, Hertfordshire, in and for the county of Herts; Ephraim Wayman, of Cambridge, in and for the county of Cambridge; Edwin Augustus Smith, of Blandford Forum, Dorsetshire, in and for the county of Dorset; John Henry Square, of Kingsbridge, Devonshire, in and for the county of Devon; John Taylor, of Bakewell, Derbyshire, in and for the county of Derby; William Hope Mitchell, of Tarporley, Cheshire, in and for the county of Chester; Richard Greenway, of Pontypool, Monmouthshire, in and for the county of Monmouth; Frederic Broadbent, of Bolton-le-Moors, Lancashire, in and for the county of Lancaster; and Walter James Scott, of North Walsham, Norfolk, in and for the county of Norfolk.

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WALLACE ALFRED JONES, West Brompton, Middlesex, tea dealer, June 23 at 11, and July 16 at 1, London: Off. Ass. Johnson; Sols. Chidley, Basinghall-street; Mayhew, Argyll-place, Regent-street.—Pet. f. June 9.

JOHN LINNIT, Berners-street, Oxford-street, manufacturing jeweller, June 26 at 2, and July 28 at half-past 12, London: Off. Ass. Edwards; Sol. Miller, 15, Clifford's-inn.—Pet. f. June 10.

CHARLES STANLEY BEVAN and CHARLES SOUTHERN BEVAN, Street's-buildings, Chapel-street, Grosvenor-square, bookbinders, (trading under the style or firm of Charles Bevan & Son), June 26 at half-past 2, and July 28 at half-past 1, London: Off. Ass. Lee; Sol. Beattie, 26, Hans-place, Chelsea.—Pet. f. June 11.

DANIEL ROSS, Romford, Essex, grocer, June 30 at half-past 12, and July 28 at 2, London: Off. Ass. Edwards; Sols. Forbes & Horwood, 8, Warnford-court.—Pet. f. June 11.

JOHN PALMER, Birmingham, pin maker, (carrying on business with Oliver Gaishford Blackham, under the style or firm of Palmer & Blackham), June 24 and July 15 at half-past 10, Birmingham: Off. Ass. Christie; Sols. Hodgson & Allen, Birmingham.—Pet. d. June 10.

JAMES PEART, Birmingham, bookseller, (carrying on business under the style or firm of Richard Peart & Son), June 24 and July 15 at half-past 10, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham.—Pet. d. June 10.

SAMPSON HACKETT, Cradley Heath, Staffordshire, draper, June 25 and July 16 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Maltby, Dudley; Knight, Birmingham.— Pet. d. June 9.

GEORGE MILNES HIRST, GEORGE HIRST, and WILLIAM FREDERICK WILMAN, Batley, Yorkshire, manufacturers, June 29 and July 27 at 11, Leeds: Off. Ass. Hope; Sols. Clough, Huddersfield; Bond & Barwick, Leeds.—Pet. d. June 8.

THOMAS CUTHBERT M'KAY and JOHN M'KAY the younger, Newcastle-upon-Tyne, hosiers, June 19 and July 21 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Ingledew & Daggett, Newcastle-upon-Tyne; Williamson & Co., 19, Great James-street, Bedford-row.—Pet. f. June 8.

EGBERT GRIFFITHS, Fenchurch-street, wine merchant, June 25 and July 27 at 1, London: Off. Ass. Nicholson; Sol. Smith, 13, Tokenhouse-yard.—Pet. f. June 9.

Meetings.

Henry Campin, Watling-street, City, warehouseman, June 24 at 12, London, pr. d.—*Thomas Earle*, Parliament-street, Westminster, railway contractor, June 25 at 12, London, last ex.—*Charles Robinson*, Strand, masonic jeweller, July 1 at 11, London, aud. ac.—*Andrew Hind*, Pleasant-row, Pentonville, tea dealer, June 24 at 12, London, aud. ac.—*Lionel Creasy* and *John Jackson Creasy*, Turnham-green, butchers, June 24 at 12, London, aud. ac.—*Leonard Dalton*, Old Kent-road, Surrey, stone merchant, June 26 at 12, London, aud. ac.—*George Brooke*, Leadenhall-market, City, and Windsor, Berkshire, provision dealer, June 30 at half-past 2, London, aud. ac.—*Benjamin Greening*, Manchester, manufacturer of wire fencing, June 23 at 12, Manchester, aud. ac.—*Charles Hargreaves* and *Michael Hargreaves*, Bradford, Yorkshire, whitesmiths, June 25 at 11, Leeds, aud. ac.—*Harriet Neale*, *William Neale*, and *John Neale*, Liverpool, hollow-ware manufacturers, June 25 at 11, Liverpool, aud. ac. sep. est of *Wm. Neale*.—*Robert Yallowley Barnes*, City-road, Middlesex, floor-cloth manufacturer, July 6 at half-past 11, London, div.—*James Schofield*, Ashton-under-Lyne, tailor, June 23 at 12, Manchester, aud. ac.; July 7 at 12, div.—*Thomas John Creswick*, Sheffield, Yorkshire, electro-plated goods manufacturer, July 4 at 10, Sheffield, div.—*Knowlton Wilson*, Sheffield, Yorkshire, surgeon, July 4 at 10, Sheffield, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Peter Steffano, Wellclose-square, Middlesex, and Cardiff, Glamorganshire, ship chandler, July 3 at half-past 1, London.—*Thomas Harrison*, Chancery-lane, Middlesex, and West-end, Esher, Surrey, tailor, July 6 at half-past 12, London.—*John Jones*, Preston, Lancashire, tailor, July 6 at 12, Manchester.—*Jonathan Wright*, Burnley, Lancashire, shoemaker, July 6 at 12, Manchester.—*William Swinton Laurie*, Liverpool, merchant, July 6 at 11, Liverpool.—*Thomas Evans*, Newtown, Montgomeryshire, flannel manufacturer, July 6 at half-past 11, Liverpool.—*Samuel Joseph Smith*, Birmingham, auctioneer, July 9 at 10, Birmingham.—*Alfred Hinton*, Birmingham, druggist, July 9 at half-past 10, Birmingham.—*William Peel*, Staincliffe, Yorkshire, blanket manufacturer, July 21 at 11, Leeds.—*Patrick Dennison*, Bradford, Yorkshire, grocer, June 20 at 12, Leeds.—*George Parker*, Leeds, Yorkshire, grocer, July 21 at 12, Leeds.

To be granted, unless an Appeal be duly entered.

Frederick Wigney, Brighton, Sussex, printer.—*Henry Gander*, High-street, Borough, licensed victualler.—*Richard Tredinnick*, Haymarket, mining broker.—*James Bassnett* and *Thomas Bassnett*, Liverpool, opticians.—*Alexander Alcock Nevins*, Liverpool, merchant.—*Ann Oliver*, widow, Walkington, Yorkshire, grocer.—*Thomas Storey Belton*, Marton and Horncastle, Lincolnshire, maltster.—*Thomas Hipkiss*, Sheffield, scale cutter.—*John Taylor*, Sheffield, auctioneer.—*T. John Creswick*, Sheffield, electro-plated goods manufacturer.

Scotch Sequestrations.

George Hunter, Glasgow, commission agent.—*Francis Sheppard*, Glasgow, commission merchant.

Tuesday, *June* 16.

Bankrupts.

DANIEL PINKSTONE, Birmingham, licensed victualler, (now a prisoner in the Gaol of Surrey), June 26 at 1, and July 21 at half-past 1, London: Off. Ass. Edwards; Sol. Haynes, Albion-hall, London-wall.—Pet. d. June 6.

LOUIS PHILIPPE REMY FENWICK DE PORQUET, Fenchurch-street, City, and Fairkytes, Hornchurch, Essex, dealer in agricultural implements, (carrying on business under the style or firm of Mary Wedlake & Co.), June 26 at half-past 12, and July 31 at 1, London: Off. Ass. Whitmore; Sols. Lindsay & Mason, 84, Basinghall-street.—Pet. f. June 13.

WILLIAM TYERS, Nottingham, joiner, June 30 and July 28 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. June 13.

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THE JURIST.

LONDON, JUNE 20, 1857.

WHOEVER takes the trouble to wade through the cases which have been decided by the Court of Appeal in Bankruptcy, with reference to bankrupts' certificates of conformity, cannot fail to be struck with the numerous discrepancies and contradictions apparent in the judgments. These cases afford an unwelcome instance of the perplexity and confusion which will inevitably arise where the Legislature has reposed a discretionary authority in the Court, but the Court has neglected to lay down at the very first opportunity some fixed principles by which the exercise of that discretion must be regulated. The Court of Bankruptcy, indeed, and that part of the public principally interested in the due administration of the bankrupt law, labour under this misfortune—the decisions of the commissioners, careful, learned, and elaborate as many of them are, have, nevertheless, very rarely been reported; and those that have been reported are seldom, if ever, quoted or commented upon in the Court of Appeal. The judges of appeal themselves, who have jurisdiction to pronounce upon a discretionary as well as any other sentence of the Court below, are thus ignorant of the opinions entertained by that Court upon any particular point, and may upset at one blow a rule which has been uniformly acted upon for years, and is supposed to have become law. Uncertainty, at all times a serious evil, is here so much the more to be deplored, because it emanates from the superior jurisdiction, and because it might, at an earlier period, have been so easily anticipated by a few concise and intelligible expositions of the judicial mind. In a matter of so much importance to the welfare of the commercial world, especially since the recent lamentable disclosures of fraud and improvidence among traders, we may, perhaps, do good service by attempting to derive order out of chaos, and by putting together a few propositions, which either the policy of the bankrupt law or the dicta of the most eminent authorities have convinced us must ultimately be adopted.

There are four sections of the 12 & 13 Vict. c. 106, which define the boundaries of the discretion vested in the Court of Bankruptcy by that statute with respect to the allowance, suspension, or refusal of the certificate, when it arises, and how it is to be controlled. These sections are the 198th, 199th, 201st, and 256th. The 198th section directs the appointment of a public sitting, at which the Court, having regard to the conformity of the bankrupt to the law of bankruptcy, and to his conduct as a trader before as well as after his bankruptcy, is either to find him entitled to his certificate, and allow the same, or to refuse or suspend the allowance thereof, or annex such conditions thereto as the justice of the case may require. The 199th section specifies what the commissioner has to certify, and refers to Schedule (Z.), which shews how the class of certificate to be awarded must be determined. The 201st section says that no bankrupt shall be entitled to a certificate of conformity, and that any such certificate, if allowed, shall be void, if the bankrupt shall have done any of the acts therein mentioned; and the 256th enacts, that if at any sitting or adjourned sitting for the allowance of the certificate of any bankrupt it shall appear that he has committed any of the offences therein enumerated, the Court shall refuse to grant the certificate, or shall suspend the same for such time as it shall think fit, and shall in like manner refuse to grant the bankrupt any further protection. The 199th and 201st sections are restrictive; they disentitle a bankrupt to a certificate, and invalidate the same if granted—the one, in express terms, whenever a bankrupt has infringed its provisions; the other, by necessary implication, whenever the Court cannot conscientiously certify all the facts thereby required. (*Wagner* v. *Imbrie*, 6 Exch. 882; 15 Jur., part 1, p. 803; *Ex parte Staner*, 2 De G., Mac., & G. 263; 16 Jur., part 1, p. 1124). The 198th and 256th sections, on the other hand, are permissive, and intrust the Court, the former with a general, the latter with a limited, discretion in certain particular instances. For our present purpose, however, which is to ascertain upon what system the Court ought to exercise these powers, and not to interpret disputed phrases in the act, we need not dwell upon these clauses, but may pass at once to the first essential topic to be considered—the policy of the bankrupt law.

The policy of the bankrupt law has, we think, been much misunderstood, and the means for attaining the end have frequently been confounded with the end itself. The true design of that law we believe to be the preservation and encouragement of commerce. No more effectual means of accomplishing such an object could be found than those by which a high standard of commercial morality should be maintained; and it is with this view that the enactments relating to the certificate of conformity were conceived. The discretion to allow, refuse, suspend, or annex conditions to a certificate, according to the behaviour of the bankrupt, is a power which, if wisely and consistently employed, holds out the strongest inducement to integrity and prudence in trade, and puts a strict curb on recklessness, rapacity, and dishonest dealings. If our definition of the policy of the bankrupt law be correct, it follows, as a necessary corollary, that the touchstone of the discretion confided to the Court with respect to the certificate is the benefit, not of individuals, but of the public. The discretion must be exercised on judicial principles; but in the case of a certificate, "those judicial principles involve the duty of attending to the public interest and the claims of society at least as much as in any other class of cases coming under the consideration of the Court." (Per Sir J. L. Knight Bruce, L. J., in *Ex parte Selby*, 2 Jur., N. S., part 1, p. 29). In that balance, then, every certificate must be weighed. In the one scale must be placed the danger to the public of allowing a rash or dishonest debtor to re-enter into business without having paid his previous debts in full; in the other, the mischief of never opening an escape from pecuniary embarrassments to a trader simply unfortunate, or whose conduct has not been unpardonably blameable. (See per Lord Cranworth in *Ex parte Curtis*, 2 De G., Mac., & G. 262). It is to this latter mischief, we presume, that Sir J. L. Knight Bruce, V. C., alluded, when, in *Ex parte Hollingworth*, (4 De G. & S. 44; 15 Jur., part 1, p. 914), he observed, that "in judging of the conduct of a bankrupt with reference to his certificate, it may not be necessary to apply to him the rigid rules properly applicable to men at their ease and well to pass in the world," but that "a certain degree of indulgence may be fit to be allowed to a man in failing circumstances and in difficulties." We should be careful how we admit this doctrine. If it means anything more than that the certificate of a culpable bankrupt must be dealt with according to the degree of censure to which he is justly amenable, then it becomes dangerous. No man should be led to think, that when he gets into trouble he may with impunity relax that rule of honesty which in prosperity he is bound to obey. The law is equal to all, and honesty is no chamelion, to change according to the different lights in which it is regarded. In *Ex parte Dobson*, (2 Jur., N. S., part 1, p. 56), however, the same learned judge stated that he did not recollect any case in which, after wilful falsehood or sheer dishonesty had been proved against a bankrupt, the Lords Justices had consented to grant a certificate. The justice of the rule his Lordship supported upon this ground, because "in certificate cases the interests of society as well as of the parties concerned are to be regarded." Even this position might accurately have been extended by adding, that the interests of society are then paramount to those of the parties, and that the latter are only to be regarded so far as they bear upon the former. In the case of *Ex parte Selby* their Lordships acted upon the principle thus enunciated. There, a solicitor having been guilty of a gross breach of duty towards a client, by retaining uninvested for more than twenty years, and that without the knowledge of the client, a sum of money which the client had transmitted to him for the purpose of being invested on good mortgage security, it was urged at the bar, that the client, when he discovered that there was no security, had remained on friendly terms with his solicitor, and had treated the matter as a mere question of debt, taking no active steps to enforce payment, but continuing to receive interest, and therefore that there had been a condonation on his part. The solicitor's client alone opposed his certificate, and not the assignees; but Sir G. J. Turner, L. J., said, that "it was new to hear it argued, that when public interest was concerned any private dealing could amount to a condonation." Thus, then, fraud is at all times an insuperable obstacle to the allowance of a certificate; and few, perhaps, will doubt that the public interest imperatively demands at least so much protection. On the other hand, negligence, rashness, and extravagant expenditure are faults which will justify either a refusal or suspension of the certificate, according to the number and character of the particular instances. (See per Sir J. L. Knight Bruce, L. J., in *Ex parte Dobson*). But the line which separates them from actual dishonesty is often very slender, and in such cases the task of discrimination becomes proportionately difficult, although sometimes absolutely necessary. We will give some examples of the cases which most commonly occur, premising that in the absence of authority we should have been inclined to place several of the cases in which the certificate has been simply suspended in the same category with those in which it has been absolutely refused. In the following instances the certificate was refused:—Where the bankrupt had systematically bought goods on credit for the purpose of selling them under cost price. (*Ex parte Holthouse*, 1 De G., Mac., & G. 237). Where the bankrupt, a banker, had gone on trading and receiving deposits long after the time when he must have known that he was hopelessly insolvent. (*Ex parte Rufford*, 2 De G., Mac., & G. 234). Where the bankrupt obtained a loan by falsely representing himself as a trader. (*Ex parte Leslie*, 2 Jur., N. S., part 1, p. 82). Where the bankrupt had sold goods shortly before the bankruptcy, and was unable to give any satisfactory account of the proceeds; which was held to be a fraudulent removal of goods in order to abstract them from creditors. (*Ex parte Dobson;* and see also *Ex parte Stuart*, 4 De G. & S. 49, and *Ex parte Simond*, 3 Jur., N. S., part 1, p. 424). Where the bankrupt purchased goods on credit one day and stopped payment on the next, and could not give a credible and satisfactory explanation of the transaction. (*Ex parte Curties*). In the following cases the certificate was merely suspended:—Where the bankrupt had commenced without any capital a business to which he had not been brought up, and had been in the habit of buying goods on credit, and pledging them immediately afterwards to raise money to carry on business, but in accordance with the custom of his trade, and with an intention and reasonable expectation of afterwards redeeming the goods. (*Ex parte Manico*, 3 De G., Mac., & G. 502; 17 Jur., part 1, p. 359). Where a man for two or three years before his bankruptcy had been continually in such a condition that all his assets, if realised, would have amounted to less than his debts, and had nevertheless continued to trade all that time without having a reasonable expectation that he should thereby be able to surmount his difficulties or to benefit his creditors. (*Ex parte Dornford*, 4 De G. & S. 29; 15 Jur., part 1, p. 278; *Ex parte Johnson*, 4 De G. & S. 25). Where a trader had carried on business in one town, and there incurred debts to the amount of 6000*l.* over and above all his assets, and had then commenced business in another town and incurred new debts, without informing his new creditors of the state of his pecuniary circumstances. (*Ex parte Wooldridge*, 24 L. J., Bank., 17). Where a bankrupt in the course of a two years' trading had become liable upon accommodation bills to the sum of 59,000*l.* (*Ex parte Hammond*, 24 L. J., Bank., 2; see also *Ex parte Culhane*, 2 Jur., N. S., part 1, p. 863). It has also been laid down that where a bankrupt has engaged in reckless trading and speculations of a desperate character, the certificate ought to be refused; but that a man who, when solvent, has engaged in a great number of different undertakings, which he had reason to believe would be successful, is not a reckless trader. (*Ex parte Wakefield*, 4 De G. & S. 18; 15 Jur., part 1, p. 961). That purchasing goods on credit for the purpose of pledging them is fraudulent; but that where goods are purchased, not for the purpose of being pledged, but in the ordinary course of trade, though pledged immediately afterwards, this is not fraud. (*Ex parte Martyn*, 2 De G., Mac., & G. 227, 228). That if a bankrupt has dealt in accommodation bills, that is a circumstance requiring a full and satisfactory explanation, but is not necessarily one affecting his title to a certificate; the main point for consideration is, how far the bankrupt had reason to believe that he could discharge his liability on such bills on their becoming due. (*Ex parte Hammond*). That the mere act of passing or depositing an accommodation bill with a banker, without any statement that it is an accommodation bill, does not amount to a representation that it is not one. (Ib.) Finally, we may observe, that in judging of the conduct of a bankrupt in any particular transaction, all the attendant circumstances must be taken into consideration. Thus, the indiscretions of youth will not be so severely dealt with as those of maturer years; (*Ex parte Martyn; Ex parte Manico*); and, on the other side, bankers and other such like persons, in whom more than ordinary confidence is necessarily reposed, will be more stringently dealt with, because they have greater opportunities than other traders of defrauding their customers, and because their business, if properly conducted, is safer to themselves—their failure more mischievous to the public. (*Ex parte Rufford; In re St. Albans Bank*, 1 Fonb. N. R. 84). There are two further questions of general principle in relation to this subject upon which it may be useful to say a few words. The first of these questions is, whether the bankrupt law is to be interpreted beneficially for creditors. In *Ex parte Matheson*, (1 De G., Mac., & G. 448; 16 Jur., part 1, p. 769), Sir J. L. Knight Bruce, L. J., commenting upon the absence of any express enactment to that effect in the Bankrupt-law Consolidation Act, 1849, hinted that that statute was not to be so construed. The opposite opinion, however, has usually prevailed in the Court of Bankruptcy, and is, we venture to think, that most consonant with sound policy, as well as with the spirit of the act itself. In *Ex parte Jardine*, (1 Fonb. N. R. 184), Mr. Commissioner Holroyd said—"The object of the act is *to support commercial credit, and herein to benefit creditors*, to prevent fraud, and to relieve the unfortunate trader who has followed the known rules of honesty and integrity." This statement very closely accords with our own original definition. Benefit to creditors is the necessary consequence of a design for the better maintenance of commerce. Commerce cannot live without credit, and enactments which are to be expounded with a view of encouraging good faith and credit generally among traders must needs be expounded beneficially for the bankrupt's creditors in each individual case. (See *In re St. Albans Bank*, 1 Fonb. N. R. 85). The second question is, whether the Court administers punishment under the bankrupt laws. In *Ex parte Hunt*, (21 L. J., Bank., 30), Lord Cranworth remarked, that so to consider the act would be a misconstruction. But his Lordship added, "If the granting of the certificate is delayed until a future day, its delay is tantamount to a punishment, because the bankrupt in the meantime is open to arrest by the creditor." Now, it is no doubt obvious enough that something more than the mere reward of innocence or punishment of guilt was contemplated by the enactments under discussion. The certificate is a badge of reputation, greater or less, according to the time and terms of the grant. For the protection of the community a token is thereby set upon the bankrupt trader, by which all people may know what manner of man he is, whom, after a failure to meet his engagements, they are again called upon to trust. But at the same time the bankrupt who has been once branded with the fatal emblem —refusal or suspension of his certificate—is not likely again to procure for himself that confidence or respect which he might have obtained before, and must necessarily find his efforts to rise in the world beset with far greater difficulties than when he first started. He bears upon him an indelible mark of ignominy, and is in fact subjected to a penalty, the weight of which he will probably feel for the remainder of his life. In cases which fall within the 256th section of the Bankrupt-law Consolidation Act, the frame of the act seems to shew that a punishment was intended. While the 198th section comes under the head of provisions with respect to the certificate of conformity, the 256th section is placed under that of offences against the law relating to bankruptcy, and is classed with a number of the most stringent penal enactments. In *Ex parte Manico* Sir J. L. Knight Bruce, L. J., laid it down that the 256th section must receive rather a strict than a large construction; and Sir G. J. Turner, L. J., spoke of inflicting a penalty under that section, and of the punishment which the statute had awarded. Lord Cranworth, however, in his observations above quoted, appears to have had in view the fact, that when the Court considers a bankrupt to deserve imprisonment, and accordingly refuses to protect him from arrest, that part of his punishment does not proceed directly from the Court, but is left to be inflicted according to the passions, caprices, or indulgence of the several creditors. This is a circumstance much to be regretted, inasmuch as it opens a door to all sorts of underhand trickery and collusion. The bankrupt is tempted to give a fraudulent preference to a hostile creditor; a creditor to conceal the delinquencies of the friendly bankrupt. The one neglects the public welfare to secure his own advantage; the other, to escape the consequences of his previous misconduct, is guilty of misconduct still more mischievous. That the sentence of a Court of justice may have its proper effect as an example, the power of enforcing that sentence should be vested in the Court, and in the Court alone.

GRAND JURIES.

Sir Frederick Thesiger has brought in a bill to dispense with the attendance of grand juries within the Metropolitan Police District, and as the Government approve of the measure, it will probably become law during the present session. The honourable and learned member limits his bill to the Metropolitan Police District (including, therefore, the Central Criminal Court) because it is supplied with stipendiary magistrates of learning and ability, before whom he proposes that an investigation should always take place previous to a trial within the above-mentioned district. We cannot explain the character of the bill, or the causes which have led to its introduction, better or more concisely than in the language of Sir Frederick Thesiger himself when moving for leave to introduce it. In the course of his speech on that occasion he said, that in 1849 the late Sir J. Jervis brought in a bill to facilitate the administration of justice in the metropolitan district, which contained provisions rendering unnecessary the summoning of grand juries. That bill was referred to a select committee, who examined, among others, the clerk of the Central Criminal Court, the Common Serjeant of that day, Mr. Humphreys, a solicitor practising in the Central Criminal Court, who had written an excellent pamphlet on Grand Juries, an alderman of the city of London, the chairman of the Newington Sessions, and a merchant of the city of London who had been foreman of grand juries for a great number of years. These witnesses expressed an unanimous opinion that it was desirable grand juries should not be assembled within the metropolitan district, and this opinion was supported by reasons which seemed to him to be unanswerable. Nothing, however, was done on this subject. But in the year 1852 the then Recorder of London, whose unfortunate illness was deeply to be deplored, and whose high character and sound judgment it was to be hoped would yet be useful to his country, addressed the grand jury, after considerable experience of the working of this system, in the following terms:—

"The great mass of the cases were, as usual, of the ordinary description, and many of their predecessors in that box had expressed an opinion that it was unnecessary that they should be called together for the purpose of considering such cases. With regard to the great body of them, which had previously undergone full inquiry by magistrates of great experience and legal knowledge, he (the learned Recorder) entirely concurred in the opinion of the grand jury, that their services in this district were perfectly useless. He was afraid that the grand jury not only occasioned a very great loss of time, but that they also were the means of increasing very considerably the expenses of criminal prosecutions, and that in some instances the grand jury also afforded an opportunity for parties to defeat the purposes of justice by tampering with the witnesses, and that in others they were made the medium of occasioning great injustice, by affording vindictive persons an opportunity of preferring unfounded charges behind the backs of those they accused."

The grand jury made the following presentment:—

"The grand jury of the fifth session of the Central Criminal Court of the year 1852 beg leave to express their unanimous opinion that a grand jury within the limits of the jurisdiction of the stipendiary magistrates is wholly unnecessary. It increases the expense and adds to the delay of criminal prosecutions. It affords an opportunity for corruption, and for tampering with prosecutors and witnesses. It enables an evil-disposed person to throw his victim into prison by a false ex parte statement made behind his back, and without any previous notice. It is, in fact, an instrument of extortion and of oppression, and as it frustrates the ends of justice, it is worse than useless, and ought to be immediately abolished. The grand jury having been informed that presentments to the same effect have been made by other grand juries; that copies of several of these presentments have been laid before the House of Commons on the motion of Mr. Matthew Foster, the member for Berwick; that a committee of the House of Commons appointed to investigate the subject reported that such a tribunal had become unnecessary; that a bill was introduced into Parliament by the present Lord Chief Justice of the Common Pleas, the Right Hon. Sir John Jervis, to abolish it, but which bill was allowed to be dropped by the late Ministry; they consider that to suffer its continuance, in opposition to the often-recorded opinions of those best qualified to judge of its utility, has a tendency to bring into contempt, not only the administration of justice, but the laws of the country. The grand jury, therefore, request that a copy of this presentment may be forwarded to the Prime Minister and to the Secretary of State for the Home Department of her Majesty's new Ministry, and they hope that a bill to abolish the grand jury of the Central Criminal Court and of the Middlesex Sessions will form a part of their earliest measures of law reform."

In that year (1852) he, (Sir F. Thesiger), as Attorney-General in Lord Derby's Government, introduced a bill to dispense with grand juries within the metropolitan district, but he was compelled to withdraw it in consequence of the dissolution which shortly afterwards took place. . . . . His observations might be supposed to apply to grand juries in general; but he wished it to be understood that he was not prepared to prevent the assembling of grand juries in the provinces. He deemed it advantageous to the public that magistrates and gentlemen of the counties should be associated with the judges in their periodical administration of criminal justice throughout the country. The appointment of a public prosecutor, or the adoption of some improved system of preliminary investigation into offences, might hereafter render it necessary to consider the whole subject of grand juries; but he strictly confined himself at present to the case of the metropolitan district, to which any sound arguments against grand juries in general would apply with peculiar force. It was superfluous to employ any antiquarian research in now discussing this question; suffice it to say that grand juries were originally viewed in the light of public accusers; but in the reign of Edward III, when justices of the peace were introduced, their functions underwent a change. Ultimately, instead of possessing any original jurisdiction, a grand jury became merely a tribunal to receive evidence, and decide whether there was a primâ facie case for sending accused persons to take their trial. This was a most important duty, which could be safely and conveniently superseded only where a better system had been provided. This was precisely the case of the Metropolitan Police District, where magistrates of experience and legal talent acted continually in the face of the public. Their principal functions consisted of receiving charges against alleged offenders, and of examining witnesses in the presence of the accused, who was confronted with his accusers, and had an opportunity of cross-examining them and the rest of the witnesses. After a careful investigation, conducted under the most favourable circumstances for arriving at a correct decision, the magistrate determined whether there were sufficient grounds for sending the prisoner to trial. The depositions originally taken were transmitted to the court to which the offender was committed, and every formality essential to the protection of the public and to the prevention of unfounded charges was completed. But another preliminary ceremony had to be gone through before the trial. Twenty-three gentlemen, generally unaccustomed to legal inquiries, were collected together in a private room, where, with closed doors, under an oath of secresy, and in the absence of the accused, they proceeded to re-investigate the very point already determined by the committing magistrate —viz. whether there was a primâ facie case for putting the person charged upon his trial. With nothing to guide them but the indictment containing the accusation and the names of the witnesses, they had to grope their way in the dark, frequently through a labyrinth of complicated facts. If the grand jury, under these unfavourable circumstances, found a true bill, their labours were perfectly supererogatory. If, on the other hand, they threw out the bill, their interference was often purely mischievous. Justice in their hands was liable to miscarry, either from a misconception as to their own functions, some jurymen imagining that they had to decide on the guilt or innocence of the accused; or from the witnesses being tampered with, and induced to suppress the evidence they had previously given when before the magistrates. This the witnesses could do in perfect security, because their examination before the grand jury was conducted in secresy. In fact, the grand jury system multiplied the chances of escape for the guilty to such an extent that it was called "the hope of the London thieves." The innocent would be benefited by the change he proposed, because, after such a person had been once committed by a magistrate, his innocence would be established in the face of the country if he took his trial; whereas a suspicion would probably attach to him, even though the grand jury threw out the bill against him, owing to the reasons for their decision being unknown to the public. As an illustration of the present system, he thought he could not mention anything more forcible than a case which occurred last year in his own experience. The medical attendant of a county lunatic asylum, after having been assaulted by a patient, directed him to be taken to a shower-bath, to be kept there for half-an-hour, and afterwards to have a dose of tartar emetic. The unfortunate man was placed in the shower-bath, and after having been kept there for twenty-eight minutes he was removed, the medicine which had been prescribed was given to him, and in half-an-hour afterwards he died. He (Sir F. Thesiger) did not venture to express any opinion with regard to the conduct of the medical man. The treatment which he ordered might have been necessary to his patient; but nobody could doubt that that was a subject which ought to have undergone a most searching public investigation; and so thought one of the most able, intelligent, and experienced of the police magistrates before whom the charge was made against the medical man; for, after having carefully examined the whole of the case, he thought it was his duty to send the party for trial. The grand jury, however, for reasons which were unknown, chose to think that it was not a case for inquiry, and they threw out the bill. He could multiply these instances if necessary, but he thought that the illustration which he had given was sufficient to shew the mischief which might arise from allowing a grand jury to interfere after there had been a public investigation before a magistrate, which was not only a protection to the party accused, but also to the public against the possibility of the accused party escaping from justice. But the mere throwing out of bills by grand juries in such cases was not one-half of the evil consequent upon this system within the metropolitan district. He believed that there was hardly a session of the Central Criminal Court or a Middlesex Session held without persons preferring indictments for different classes of misdemeanour, for the purpose of revenge or extortion. It was not at all necessary that the parties should go before a magistrate to prefer accusations of that description. If a person was desirous of gratifying his malice or extorting money he might wait for the assembling of the grand jury, and then, without the slightest notice to the party, he might prefer his indictment. The proceeding was altogether secret. If the party got his bill, application might be made at once for a bench warrant; and Saturday was the day generally selected for that purpose, because then the party must remain in custody for nearly two days before bail could be given. Having secured that engine of extortion, the accusing party had good grounds for hoping that the accused would compromise the matter with him, rather than submit to the exposure of a public trial. Provision was intended to be made against such cases by the Central Criminal Court Act, and the manner in which that provision was defeated was a curious instance of the subtlety and evasiveness of fraud. That act provided that no indictment for misdemeanour, except for perjury, should be presented at the Central Criminal Court unless the party was in custody, or unless the prosecutor was bound in recognisances. That of course was to necessitate the intervention of a magistrate; but inasmuch as the Central Criminal Court was the only court mentioned, parties had been in the habit of going to the Middlesex Sessions, and of there procuring the grand jury to find bills of this description. They then removed them to the Central Criminal Court. No recognisances at all were entered into, and so they evaded the provisions of the act of Parliament. Misdemeanours were still presented to the grand jury without any previous investigation before a magistrate. With regard to recognisances, the course which they pursued was this—they went to the magistrate and said, "We want to prosecute A. B. for fraud or conspiracy; bind us over in recognisances;" and without any investigation of the facts, the magistrate bound them over. Now, the consequences of these proceedings were most alarming, and he could not help giving one or two instances which had occurred to his own knowledge. A lady of undoubted respectability was indicted in this secret manner for keeping a brothel by a person who, as was afterwards ascertained, had been under sentence of transportation. She appeared on the day fixed for the trial, but neither the prosecutor nor his witnesses attended. She had the owner of the house in court to shew that the apartments had always been occupied by families of the highest respectability. Of course an acquittal took place immediately, but it was impossible for that lady to avoid the suspicion which was excited in many minds that the prosecutor and his witnesses had been bought off. In another case, a person of great respectability, a banker and solicitor in the county of Surrey, had two indictments preferred against him—one for forgery and one for conspiracy. The party who preferred them had made three similar experiments at the Central Criminal Court and one at the Middlesex Sessions, but without success. But by perseverance he obtained his bills of indictment, and the trial came on before Lord Campbell. The result was an acquittal, accompanied with the applause of the persons in court, Lord Campbell stating to the jury that he had no doubt they would feel that there was not the slightest imputation upon the gentleman's character from the proceedings. But many an innocent party might not have the nerve to stand a public trial. It might be that he was accused of some infamous offence without the slightest foundation. He shrank from the idea of appearing in public, and was therefore willing to pay a very large sum in order to induce the withdrawal of the prosecution. If the party was guilty, there was an additional motive for making a compromise with his prosecutor in that manner, and persons had been found to make a trade of preferring indictments in order to obtain the most infamous extortions. Now, the remedy which he (Sir F. Thesiger) proposed was very simple. He proposed that no charge should be tried in the Central Criminal Court, or in the other courts within the Metropolitan Police District, without a previous investigation before a magistrate. No inquiry before a grand jury would be necessary, and he therefore proposed to dispense with the attendance of a grand jury in such cases. Various subordinate advantages would arise from the measure. In the first place, there would be a very considerable saving of time and expense. Under the present system prosecutors and their witnesses were bound to attend, in the first place, before the clerk of indictments, who prepared their depositions and the indictment. They had then to go before the grand jury; but it frequently happened that they were obliged to remain for two or three days before their case came on; and several hundred persons of different sexes were thus collected together under circumstances which were certainly not advantageous to their morality. The inconvenience, expense, and delay were so great that many persons were deterred from prosecuting. Then, again, the expense was no inconsiderable element for consideration. The witnesses were paid small sums, ranging from 1*s*. 6*d*. to 3*s*. 6*d*. per day, but when this was multiplied by several days, by hundreds of offences, and by twelve sessions a year, it would be found that the aggregate amount was a very considerable one, and a large saving would necessarily take place by the plan he proposed. The clerk of indictments would prepare a list of cases, so that persons would be able to ascertain when their cases were likely to be tried, and would only attend on that day. The business of the session might be thus most conveniently arranged, a great saving of time and money would be effected, and public justice in this district would undoubtedly be greatly facilitated.

BILL IN PROGRESS.

ABSTRACT OF A BILL

To amend the Law relating to the Conveyance of Lands for Charitable Uses.

Preamble.

Sect. 1. No deed or assurance heretofore made, and under which possession is now held for any charitable uses, and no deed or assurance hereafter to be made for any charitable uses whatsoever of any hereditaments of any tenure whatsoever, or of any estate or interest therein, made respectively upon a full and valuable consideration actually paid at or before the making or perfecting such deed or assurance, or reserved by way of rent, rent-charge, or other annual payment, or partly paid at or before the making or perfecting such deed or assurance, and partly reserved as aforesaid, without fraud or collusion, shall be deemed to be null and void within the meaning of the first-recited act if such deed or assurance has been or shall be made to take effect in possession for the charitable use intended immediately from the making thereof, and without any power of revocation, and has been at any time prior to the passing of this act, or shall be within twelve calendar months next after the passing of this act, or within six calendar months next after the making or perfecting such deed or assurance, inrolled in her Majesty's High Court of Chancery.

2. No deed or assurance heretofore made for any charitable uses whatsoever of any hereditaments of any tenure whatsoever, or of any estate or interest therein, not upon such full and valuable consideration as in the first section of this act is mentioned, and under which possession is now held, for any charitable uses, shall be deemed to be null and void, within the meaning of the first-recited act, by reason of such deed or assurance not having been indented, or not purporting to be indented, nor by reason of such deed or assurance not having been sealed and delivered in the presence of two or more credible witnesses, nor by reason of such deed or assurance not having been inrolled in her Majesty's High Court of Chancery within six calendar months next after the execution thereof, nor by reason of such deed or assurance, or any deed forming part of the same transaction, containing any grant or reservation of any peppercorn or other nominal rent, mines, or minerals, or easement, or any covenants or provisions as to the erection, repair, position, or description of buildings, the formation or repair of streets or roads, drainage or nuisances, or any covenants or provisions of the like nature for the use and enjoyment as well of the hereditaments comprised in such deed or assurance as of any other adjacent or neighbouring hereditaments of the donor or grantor, or of any person or persons claiming under him, not comprised in such deed or assurance, or any right of entry on non-payment of any such rent, or breach of any such covenant or provision, or any covenant indemnifying the donor or grantor against any prior incumbrance, or any stipulations of the like nature for the benefit of the donor or grantor, or of any person or persons claiming under him, nor (in the case of any such assurance of hereditaments of copyhold or customary tenure, or of any estate or interest therein) by reason of the same not having been made by deed, if such deed or assurance has been at any time prior to the passing of this act, or shall be within twelve calendar months next after the passing of this act, inrolled in her Majesty's High Court of Chancery.

3. No deed or assurance hereafter to be made for any charitable uses whatsoever of any hereditaments of any tenure whatsoever, or of any estate or interest therein, not upon such full and valuable consideration as in the first section of this act is mentioned, shall be deemed to be null and void, within the meaning of the first-recited act, by reason of such deed or assurance not being indented or not purporting to be indented, nor by reason of such deed or assurance, or any deed forming part of the same transaction, containing any such grant, reservation, covenants, provisions, right of entry, or stipulations for the benefit of the donor or grantor, or of any person or persons claiming under him, as in the second section of this act is mentioned, nor (in the case of any such assurance of hereditaments

of copyhold or customary tenure, or of any estate or interest therein) by reason of the same not being made by deed.

4. Where charitable uses of any past deed, &c. not inrolled are declared by any other deed, &c., inrolment of such other deed, &c. sufficient; where neither is inrolled, inrolment of such other deed, &c. requisite.

5. Where charitable uses of any future deed, &c. declared by any other deed, &c., inrolment of such other deed, &c. requisite.

6. Act not to invalidate certain deeds, nor to extend to deeds, &c. already avoided, or to pending suits. When acknowledgment not necessary.

7. Hereditaments conveyed to trustees for charitable uses to vest in successors of original trustees duly appointed.

8. Providing for payments in lieu of fines, &c. as to copyholds.

9. For purposes of enfranchisement, payments to have same force as admittance.

10. The last three preceding sections not to affect property within the 13 & 14 Vict. c. 28.

11. Act not to extend to Scotland or Ireland, nor to prejudice the two universities, or the colleges of Eton, Winchester, or Westminster.

COURT OF EXCHEQUER.

TRINITY TERM.—20 VICTORIA.—*June* 10, 1857.

This Court will hold sittings on Friday, the 26th day of June, and Tuesday, the 7th day of July, and will at such sittings proceed in giving judgment in all matters then standing for judgment.

FREDERICK POLLOCK.
SAMUEL MARTIN.
G. BRAMWELL.
W. H. WATSON.

Court Papers.

EQUITY SITTINGS, AFTER TRINITY TERM, 1857.

Court of Chancery.

Before the LORD CHANCELLOR.

At Lincoln's Inn.

Tuesday .... *June*	23	First Seal.—Appeal Motions and Appeals.
Wednesday	24	Petitions and Appeals.
Thursday	25	Appeals.
Friday	26	
Saturday	27	
Monday........	29	Second Seal.—Appeal Motions and Appeals.
Tuesday	30	Appeals.
Wednesday .. *July*	1	
Thursday	2	
Friday	3	
Saturday	4	
Monday........	6	Third Seal.—Appeal Motions and Appeals.
Tuesday........	7	Appeals.
Wednesday	8	
Thursday.......	9	
Friday	10	
Saturday	11	
Monday........	13	Fourth Seal.—Appeal Motions and Appeals.
Tuesday........	14	Appeals.
Wednesday.....	15	
Thursday	16	
Friday	17	
Saturday	18	
Monday........	20	Fifth Seal.—Appeal Motions and Appeals.
Tuesday........	21	Appeals.
Wednesday	22	
Thursday	23	
Friday	24	
Saturday	25	Petitions and Appeals.
Monday........	27	Appeals.
Tuesday........	28	
Wednesday	29	Sixth Seal.—Appeal Motions and Appeals.

Notice.—Such days as his Lordship is hearing Appeals in the House of Lords excepted.

The Courts will not sit after Thursday, the 6th August.

Before the LORDS JUSTICES.

At Lincoln's Inn.

Tuesday .... *June*	23	First Seal.—Appeal Motions and Appeals.
Wednesday	24	Appeals.
Thursday	25	
Friday	26	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Saturday	27	Appeals.
Monday........	29	Second Seal.—Appeal Motions and Appeals.
Tuesday........	30	Appeals.
Wednesday .. *July*	1	
Thursday	2	
Friday	3	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Saturday	4	Appeals.
Monday........	6	Third Seal.—Appeal Motions and Appeals.
Tuesday........	7	Appeals.
Wednesday	8	
Thursday	9	
Friday	10	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Saturday	11	Appeals.
Monday........	13	Fourth Seal.—Appeal Motions and Appeals.
Tuesday........	14	Appeals.
Wednesday	15	
Thursday	16	
Friday	17	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Saturday	18	Appeals.
Monday........	20	Fifth Seal.—Appeal Motions and Appeals.
Tuesday........	21	Appeals.
Wednesday	22	
Thursday	23	
Friday	24	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.
Saturday	25	Appeals.
Monday........	27	
Tuesday........	28	
Wednesday	29	Sixth Seal.—Appeal Motions.
Thursday.......	30	Petitions in Lunacy and Bankruptcy, and Appeal Petitions.

Notice.—The days (if any) on which the Lords Justices shall be engaged at the Judicial Committee of the Privy Council are excepted.

Before the Right Hon. the MASTER OF THE ROLLS.

At Chancery-lane.

Tuesday .... *June*	23	First Seal.—Motions.
Wednesday	24	Pleas, Demurrers, Exceptions, Further Directions, Further Considerations, and Further Directions and Costs, until all are disposed of, and then the General Cause Book.
Thursday.......	25	
Friday	26	
Saturday	27	
Monday........	29	Second Seal.—Motions.
Tuesday........	30	Pleas, Demurrers, Exceptions, Further Directions, Further Considerations, and Further Directions and Costs, until all are disposed of, and then the General Cause Book.
Wednesday .. *July*	1	
Thursday	2	
Friday	3	
Saturday	4	General Petition-day.
Monday.........	6	Third Seal.—Motions.
Tuesday........	7	Pleas, Demurrers, Exceptions, Further Directions, Further Considerations, and Further Directions and Costs, until all are disposed of, and then the General Cause Book.
Wednesday	8	
Thursday	9	
Friday	10	
Saturday	11	
Monday.........	13	Fourth Seal.—Motions.

Tuesday	14	Pleas, Demurrers, Exceptions, Further Directions, Further Considerations, and Further Directions and Costs, until all are disposed of, and then the General Cause Book.
Wednesday	15	
Thursday	16	
Friday	17	
Saturday	18	
Monday	20	Fifth Seal.—Motions.
Tuesday	21	Pleas, Demurrers, Exceptions, Further Directions, Further Considerations, and Further Directions and Costs, until all are disposed of, and then the General Cause Book.
Wednesday	22	
Thursday	23	
Friday	24	
Saturday	25	
Monday	27	
Tuesday	28	
Wednesday	29	Sixth Seal.—Motions.
Thursday	30	General Petition-day.

Notice.—At the Sittings after Trinity Term the Master of the Rolls will hear Further Directions, Further Considerations, and Further Directions and Costs, previous to proceeding to hear Original Causes.

Short Causes, Short Claims, Consent Causes, Unopposed Petitions, and Claims every Saturday at the sitting of the Court.

Notice.—Consent Petitions must be presented, and copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard.

Before Vice-Chancellor Sir Richard T. Kindersley.

At Lincoln's Inn.

Tuesday	*June* 23	First Seal.—Motions & General Paper.
Wednesday	24	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Thursday	25	
Friday	26	Petitions and General Paper.
Saturday	27	Short Causes, Short Claims, & Causes.
Monday	29	Second Seal.—Motions and General Paper.
Tuesday	30	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	*July* 1	
Thursday	2	
Friday	3	Petitions and General Paper.
Saturday	4	Short Causes, Short Claims, & Causes.
Monday	6	Third Seal. — Motions and General Paper.
Tuesday	7	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	8	
Thursday	9	
Friday	10	Petitions and General Paper.
Saturday	11	Short Causes, Short Claims, & Causes.
Monday	13	Fourth Seal.—Motions and General Paper.
Tuesday	14	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	15	
Thursday	16	
Friday	17	Petitions and General Paper.
Saturday	18	Short Causes, Short Claims, & Causes.
Monday	20	Fifth Seal. — Motions and General Paper.
Tuesday	21	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	22	
Thursday	23	
Friday	24	Petitions.
Saturday	25	Short Causes and Claims, and remaining Petitions.
Monday	27	Remaining Petitions and General Paper.
Tuesday	28	
Wednesday	29	Sixth Seal.—Motions, remaining Petitions, and General Paper.

Notice.—After the Second Seal the Vice-Chancellor will hear Exceptions, and Further Directions, and Further Considerations, in priority to Original Causes.

Before Vice-Chancellor Sir J. Stuart.

At Lincoln's Inn.

Tuesday	*June* 23	First Seal.—Motions.
Wednesday	24	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Thursday	25	
Friday	26	Petitions and General Paper.
Saturday	27	Short Causes and Claims, and General Paper.
Monday	29	Second Seal.—Motions.
Tuesday	30	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	*July* 1	
Thursday	2	
Friday	3	Petitions and General Paper.
Saturday	4	Short Causes and Claims, and General Paper.
Monday	6	Third Seal.—Motions.
Tuesday	7	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	8	
Thursday	9	
Friday	10	Petitions and General Paper.
Saturday	11	Short Causes and Claims, and General Paper.
Monday	13	Fourth Seal.—Motions.
Tuesday	14	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	15	
Thursday	16	
Friday	17	Petitions and General Paper.
Saturday	18	Short Causes and Claims, and General Paper.
Monday	20	Fifth Seal.—Motions.
Tuesday	21	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	22	
Thursday	23	
Friday	24	General Petition-day.
Saturday	25	Short Causes and Claims, and remaining Petitions.
Monday	27	Remaining Petitions and General Paper.
Tuesday	28	
Wednesday	29	Sixth Seal.—Motions.

Before Vice-Chancellor Sir W. P. Wood.

At Lincoln's Inn.

Tuesday	*June* 23	First Seal.—Motions & General Paper.
Wednesday	24	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Thursday	25	
Friday	26	
Saturday	27	Petitions, Short Causes, Claims, and General Paper.
Monday	29	Second Seal.—Motions and General Paper.
Tuesday	30	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	*July* 1	
Thursday	2	
Friday	3	
Saturday	4	Petitions, Short Causes, Claims, and General Paper.
Monday	6	Third Seal. — Motions and General Paper.
Tuesday	7	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	8	
Thursday	9	
Friday	10	
Saturday	11	Petitions, Short Causes, Claims, and General Paper.
Monday	13	Fourth Seal.—Motions and General Paper.
Tuesday	14	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	15	
Thursday	16	
Friday	17	
Saturday	18	Petitions, Short Causes, Claims, and General Paper.
Monday	20	Fifth Seal. — Motions and General Paper.
Tuesday	21	Pleas, Demurrers, Exceptions, Causes, Claims, and Further Directions.
Wednesday	22	
Thursday	23	
Friday	24	
Saturday	25	General Petition-day, Short Causes and Claims.
Monday	27	Remaining Petitions and General Paper.
Tuesday	28	
Wednesday	29	Sixth Seal.—Motions.

Notice.—Claims will be placed in the paper after Short Causes, &c. on each Saturday, in precedence of the General Paper.

N. B.—Any remaining Motions and Petitions will be taken after the Sixth Seal.

JOSEPH DODSON the younger, Wormley, Hertfordshire, Russia merchant, (lately carrying on business at Fenchurch-buildings, City, with John Dickason Hewett, under the firm of J. D. Hewett & Co.), June 29 at 12, and Aug. 3 at 11, London: Off. Ass. Pennell; Sol. Henderson, 22, Leadenhall-street.—Pet. f. June 6.

JOHN CARLESS, Gloucester, innkeeper, June 29 and July 27 at 11, Bristol: Off. Ass. Miller; Sols. Smith, Gloucester; Bevan & Girling, Bristol.—Pet. f. June 11.

WILLIAM KEIGHLEY, SUGDEN KEIGHLEY, and JOSEPH KEIGHLEY, Keighley, Yorkshire, worsted manufacturers, June 30 and July 28 at 11, Leeds: Off. Ass. Hope; Sols. Bond & Barwick, Leeds.—Pet. d. June 12.

WILLIAM JOHSTON, Whitehaven, Cumberland, currier, June 29 at 11, and July 28 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. W. & J. Lamb, Whitehaven; Griffith & Crighton, Newcastle-upon-Tyne.—Pet. f. June 4.

Meetings.

John Vickers, Eldon-road, Victoria-road, Kensington, Middlesex; Cross-lane, St. Mary-at-Hill, Lower Thames-street, London; and High-street, Southwark, Surrey, wine merchant, July 6 at half-past 11, London, last ex.—*Elizabeth S. Small*, Fonthill-place, Clapham-road, Surrey, plumber, June 30 at 11, London, aud. ac.—*Joseph Bruce*, Yarmouth, Isle of Wight, Southampton, grocer, June 25 at 11, London, aud. ac. —*Sarah Roach*, Merthyr Tydvil, Glamorganshire, carrier, July 2 at 11, Bristol, aud. ac.—*Stephen Margetts*, Birmingham, licensed victualler, June 27 at half-past 10, Birmingham, aud. ac.—*John H. Davies*, Bridgend, Glamorganshire, grocer, July 9 at 11, Bristol, div.—*John Kinton*, Coventry, builder, July 8 at half-past 10, Birmingham, div.—*William Keates*, Uttoxeter, Staffordshire, ironmonger, July 8 at half-past 10, Birmingham, div.—*Gilbert Hodgson* and *Wm. Atcheson*, Sunderland, Durham, timber merchants, July 9 at 12, Newcastle-upon-Tyne, div.—*John Clay*, South Shields, Durham, ale merchant, July 9 at half-past 11, Newcastle-upon-Tyne, div.—*Thomas Ridley*, Hartlepool, Durham, draper, July 9 at 11, Newcastle-upon-Tyne, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

J. Bruce, Yarmouth, Isle of Wight, Southampton, grocer, July 9 at 11, London.—*Henry Bateson*, Hadden-place, Waterloo-road, Surrey, apothecary, July 9 at half-past 11, London.—*Thomas Game*, Coldwaltham, Essex, corn dealer, July 8 at 1, London.—*George Lashmar*, Brighton, seed crusher, July 8 at 12, London.—*Sarah Roach*, Merthyr Tydvil, Glamorganshire, carrier, July 14 at 11, Bristol.—*Thomas Ridley*, Hartlepool, Durham, draper, July 9 at 11, Newcastle-upon-Tyne.—*Neptune Seal* and *John Seal*, Denton, Lancashire, and Birmingham, hat manufacturers, July 10 at 12, Manchester.—*James Wallwork*, Chorley, Lancashire, cotton spinner, July 9 at 1, Manchester.—*Thos. Lewis*, Nantwich, Cheshire, draper, July 9 at 11, Liverpool.—*Thomas Bradley*, Kidderminster, Worcestershire, apothecary, July 9 at 10, Birmingham.—*George Moore*, Shardlow, Derbyshire, innkeeper, July 7 at half-past 10, Nottingham.—*George A. Hewitt*, Derby, chemist, July 7 at half-past 10, Nottingham.—*H. Wheeler*, Derby, painter, July 7 at half-past 10, Nottingham.

To be granted, unless an appeal be duly entered.

Charles P. Poole, Lawrence-lane, City, warehouseman.—*Robert Clinch*, Salisbury, stable keeper.—*Richard Griffith* the elder and *Richard Griffith* the younger, Hatton-wall, and St. James's-walk, Clerkenwell, brass founders.—*Hen. Faithfull*, Woodstock-road, East India-road, Blackwall, shipowner. —*Thomas Hampton*, Broadwater, Sussex, corn merchant.—*Domenico Braggiotti* and *Paul Testa*, Lombard-street, City, merchants.—*Nicholas Matthews*, Heaton Norris, Lancashire, ironfounder.—*Alfred Charles Wood*, Pershore, Worcestershire, linendraper.—*Thomas Hughes*, Dudley, Worcestershire, innkeeper.—*James Chatterton* and *Moses Chatterton*, Horncastle, Lincolnshire, millers.—*Caroline Liddell*, Great Driffield, Yorkshire, common brewer.

Petition Annulled.

James Allured, Norwich, tailor.

Partnership Dissolved.

George Edwards and *George H. Edwards*, Halifax, Yorkshire, attornies and solicitors.

Scotch Sequestrations.

Ronald Wright, Glasgow, grain merchant.—*John Mowatt*, Glasgow, draper.—*Alexander Gillespie*, Glasgow, ironmonger. —*George M. Salmon*, Falkirk, writer.

CIRCUITS OF THE JUDGES.

(*Mr. Justice* WIGHTMAN *will remain in Town*).

SUMMER CIRCUITS, 1857.	NORFOLK.	N. WALES.	S. WALES.	HOME.	WESTERN.	MIDLAND.	OXFORD.	NORTHERN.
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Saturday, *July* 4	....	....	Cardiff	....	....	....	....	....
Tuesday 7	....	....	....	Hertford	....	....	....	....
Wednesday.. 8	....	....	....	....	....	....	....	York & City
Thursday ... 9	....	....	....	....	....	....	Abingdon	....
Friday...... 10	....	....	....	....	....	Oakham	....	....
Saturday ... 11	....	....	....	....	Devizes	Northamptn.	Oxford	....
Monday 13	Aylesbury	....	....	Chelmsford	....	....	....	....
Tuesday 14	....	....	....	....	Winchester	....	....	....
Wednesday.. 15	....	Newtown	Haverford-	....	....	Leicest. & B.	Worcester &	....
Thursday ... 16	Bedford	....	[west & Tn.	....	....	....	[City	....
Saturday ... 18	....	Dolgelly	Cardigan	....	Dorchester	Nottingham	Stafford	....
Monday 20	Huntingdon	....	....	Lewes	....	[& Town	....	....
Tuesday 21	....	Carnarvon	....	....	....	....	....	Durham
Wednesday.. 22	Cambridge	....	Carmarthen	....	Exeter & City	Lincoln &	....	....
Thursday ... 23	....	....	....	Maidstone	....	[City	....	....
Friday...... 24	....	Beaumaris	....	....	....	....	....	....
Saturday.... 25	....	....	....	....	....	Derby	Shrewsbury	Newcastle &
Monday 27	Norwich and	Ruthin	Brecon	....	....	....	....	[Town
Tuesday 28	[City	....	....	....	Bodmin	....	....	....
Wednesday.. 29	....	....	....	....	....	Warwick	Hereford	....
Thursday ... 30	....	Mold	Presteign	....	....	....	....	Carlisle
Saturday, *Aug.* 1	Ipswich	Chester &	Chester &	....	....	....	Monmouth	....
Monday 3	....	[City	[City	Croydon	Wells	....	....	Appleby
Wednesday.. 5	....	....	....	....	....	....	Gloucester &	Lancaster
Saturday.... 8	....	....	....	....	Bristol	....	[City	Liverpool

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In the year 1856, (after the exertions of ten years), before it had transpired what had been saved and accumulated to the credit of each share, and when the most sanguine probably expected the original paid-up capital of 40,000*l*. (or 2*l*. per share) had not been increased to more than 60,000*l*. in all, (or 3*l*. per share), the shares were at a supposed premium, and repeatedly passed hands at 3*l*. 5*s*. Now, although the accumulation is greater than was expected, and there is the precise sum of 3*l*. 12*s*. 6*d*. actually to the credit of each share in sound and healthy investments undeniably secure, and the dividend until the next division is to be 3*s*. per share, free of property tax, and is payable yearly in July, these shares still remain comparatively neglected. No one acquainted with insurance offices can deny that the business is first class, and sufficiently large to be in every way secure; that it is well and liberally conducted, is supported by the "haut ton" of the Profession in London, and that the position or status of those gentlemen who are on the direction quite precludes the slightest possibility of any but the most accurate and judicious proceedings in the management of the affairs of the Society.

Surely, considering the difficulty in the present age of giving a firm footing rapidly to any new society, it is reasonable to argue that the shares of a Company of such quality should be at some premium. While few persons are, on the one hand, astonished that the original 2*l*. shares in that magnificent Company, "The Legal and General," are selling for 6*l*. 10*s*. per share, which is about par, with accumulations, is it too much to suppose that our shares should cease to be at so absurdly low a price? Considering the present value, one can only fancy that many of the shareholders actually forget the amount paid up and accumulated, lose sight of the certificates mentioning the existence of 3*l*. 12*s*. 6*d*. as regards each share, and that it escapes them there is a silent but certain addition to their capital going on, or that many shares are relinquished by improvident members of the legal profession, either just before or soon after the Long Vacation, to pay for a trip to Baden Baden or some fashionable place of resort.

It does seem extraordinary that while the Profession are investing monies daily in mortgages or other securities, so that their particular attention is directed to the rate of interest for the time being, they should appear entirely to forget that no great time can probably elapse when it will be difficult to employ small sums to pay 4*l*. per cent., where capital is gradually increasing or rolling up like a snow-ball at the same time.

But supposing the matter to be looked at in another shape. The present annual premiums are about 20,000*l*. Is not the business of any good office worth, moderately, at the very least, one year's premium? If so, the shares in this Society should be at 4*l*. 12*s*. 6*d*. each; because, as there are 20,000 shares only, and there is 3*l*. 12*s*. 6*d*. per share now to take care of itself, it requires 20,000*l*. only, or 1*l*. per share, to effect this.

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WILLIAM BOOTH, Upper Whitecross-street, St. Luke's, machine sawyer, June 30 and Aug. 4 at 11, London: Off. Ass. Edwards; Sols. Slater & Belfrage, 23, Great Tower-street.—Pet. f. May 28.

THOMAS BRUCE COOPER, York-place, Old Kent-road, Surrey, builder, June 30 at 2, and July 29 at 1, London: Off. Ass. Stansfeld; Sol. Chidley, 10, Basinghall-street.—Pet. f. June 18.

WILLIAM WAYRE, Oxford-street, mantle warehouseman, June 30 at 2, and July 29 at 12, London: Off. Ass. Graham; Sols. King & George, 35, King-street, Cheapside.—Pet. f. May 13.

EBENEZER PRICE, Victoria-road, near Victoria Docks, Plaistow, West Ham, Essex, upholsterer, July 2 at 12, and July 31 at half-past 1, London: Off. Ass. Whitmore; Sols. Langley & Gibbon, 32, Great James-street, Bedford-row.—Pet. f. June 8.

CHARLES WORTERS BROUGHTON, Southampton-street, Covent-garden, tailor, July 2 at 12, and July 31 at half-past 11, London: Off. Ass. Cannan; Sol. Buchanan, 1, Walbrook-buildings.—Pet. f. June 18.

WILLIAM GIFFORD, St. Ives, Huntingdonshire, saddler, July 6 at 2, and Aug. 3 at 12, London: Off. Ass. Pennell; Sols. Watts, St. Ives; Rennolls, 1, Lincoln's-inn-fields.—Pet. f. June 16.

EDWARD BELTON, Dudley, Worcestershire, innkeeper, July 2 and 24 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Harrison & Wood, Birmingham.—Pet. d. June 16.

FREDERICK BAXTER, Nottingham, silk throwster, July 10 and 28 at half-past 10, London: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. June 9.

WILLIAM REYNOLDS, Pontypridd, Glamorganshire, draper, June 30 and July 27 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Girling, Bristol.—Pet. f. June 9.

WILLIAM EBENEZER PINCOTT, Cardiff, Glamorganshire, wholesale tea dealer, (carrying on business with John Jeane Coleman), July 1 and Aug. 3 at 11, Bristol: Off. Ass. Miller; Sol. Ayre, jun., Bristol.—Pet. f. June 18.

WALTER LODGE, Almondbury and Huddersfield, Yorkshire, cloth manufacturer, July 6 at 12, and Aug. 3 at 11, Leeds: Off. Ass. Hope; Sols. Cariss & Cudworth, Leeds.—Pet. d. June 16.

WILLIAM RAWLE, Liverpool, broker, July 2 and 23 at 11, Liverpool: Off. Ass. Bird; Sol. Banner, Liverpool.—Pet. f. June 15.

WILLIAM STOCK, Newton, near Warrington, Lancashire, glass manufacturer, July 7 and Aug. 3 at 11, Liverpool: Off. Ass. Morgan; Sol. Dodge, Liverpool.—Pet. f. May 1.

Meetings.

Lorens Theodor Wang, Sunderland, timber merchant, July 1 at 12, Newcastle-upon-Tyne, last ex.—*Henry Bateson*, Hadden-place, Waterloo-road, Surrey, apothecary, June 30 at 11, London, aud. ac.—*James Swift*, Gravesend, Kent, statuary, June 30 at 12, London, aud. ac.—*Mary Huddleston* and *Thomas Huddleston*, Berners-street, Oxford-street, cabinet makers, July 8 at 11, London, aud. ac.; July 13 at half-past 1, div.—*William Stephens*, Gloucester, cattle salesman, July 2 at 11, Bristol, aud. ac.—*Wm. Penny*, Newport, Monmouthshire, brewer, July 16 at 11, Bristol, aud. ac.—*William John Roberts*, Burry Port, Pembrey, Carmarthenshire, draper, July 16 at 11, Bristol, aud. ac.—*Thos. Younger* the younger, Monkwearmouth, Sunderland, mason, July 2 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*John Cowan*, Newcastle-upon-Tyne, cheesemonger, July 3 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*James Cowan*, Newcastle-upon-Tyne, cheesemonger, July 3 at 1, Newcastle-upon-Tyne, aud. ac.—*Thomas Stacey*, Eckington, Derbyshire, coal master, June 29 at 12, Manchester, aud. ac.—*James Steen Harvey*, Birmingham, grocer, July 2 at half-past 11, Birmingham, aud. ac.—*Benjamin Casson* and *Henry Casson*, Kingston-upon-Hull, tanners, July 22 at 12, Kingston-upon-Hull, aud. ac. and div. joint and sep. ests.—*Caroline Liddell*, Great Driffield, Yorkshire, common brewer, July 8 at 12, Kingston-upon-Hull, aud. ac.—*Samuel George Kidd*, Kingston-upon-Hull, seed crusher, July 22 at 12, Kingston-upon-Hull, aud. ac. and div.—*John Ostler*, Kingston-upon-Hull, merchant, July 22 at 12, Kingston-upon-Hull, aud. ac. and div.—*E. Rheam*, Kingston-upon-Hull, currier, July 22 at 12, Kingston-upon-Hull, aud. ac. and div—*Thomas Nash*, Leather-lane, and Kirby-street, Hatton-garden, carpenter, July 13 at 2, London, div.—*Wm. Paskell Garrard*, Little Tower-street, City, wine merchant, July 13 at 1, London, div.—*Lesley Alexander* and *William Bardgett*, Old Broad-street, City, merchants, July 13 at 12, London, div.—*John Killick*, Knightsbridge-terrace, Knightsbridge, silversmith, and Greenwich, Kent, licensed victualler, July 10 at half-past 11, London, div.—*John Easton*, Clapham-road-place, Clapham-road, Surrey, builder, July 10 at half-past 11, London, div.—*Joseph Smith*, Broad-street, Lambeth, Surrey, dealer in iron, July 10 at 11, London, div.—*Benjamin Brown*, Bruton, Somersetshire, grocer, July 16 at 11, Bristol, div.—*Richard Fox*, Moreton-in-the-Marsh, Gloucestershire, ironmonger, July 16 at 11, Bristol, div.—*Frederick Bliedberg* and *Marc Saran*, Liverpool, commission merchants, July 13 at 11, Liverpool, div. sep. est. of *Frederick Bliedberg*.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Killick, Knightsbridge-terrace, Knightsbridge, silversmith, July 10 at half-past 11, London.—*William Stephens*, Gloucester, cattle salesman, July 13 at 11, Bristol.—*William Penny*, Newport, Monmouthshire, brewer, July 21 at 11, Bristol.—*Evan Lewis*, Cymmer, Llantrissaint, Glamorganshire, victualler, July 14 at 11, Bristol.—*Frederick Bliedberg* and *Marc Saran*, Liverpool, commission merchants, July 13 at 11, Liverpool.—*William Jones*, Carnarvon, coal merchant, July 13 at 12, Liverpool.—*Sir Charles Fox* and *John Henderson*, Smethwick, Staffordshire, and New-street, Spring-gardens, Westminster, and Fore-street, Limehouse, engineers, July 27 at 11, Birmingham.—*Samuel Starmer*, Wolverhampton, Staffordshire, shoe manufacturer, July 13 at 10, Birmingham.

To be granted, unless an Appeal be duly entered.

Edward Hamlin Kiddle, Valentine-place, Webber-street, Blackfriars-road, Surrey, miller.—*Joshua Pooley*, Brighton, milliner.—*Edward Duke Moore*, Southgate, Middlesex, and Minories, City, merchant.—*Rowland Muckleston*, Hackney-road-crescent, shoe manufacturer.—*Jesse Catt*, Little Tower-street, City, licensed victualler.—*James Griffiths*, Bristol, and Cardiff, Glamorganshire, builder.

Scotch Sequestrations.

Andrew Mowatt, Glasgow, wholesale lace warehouseman.—*John Afleck & Co.*, Glasgow, auctioneers.

Tuesday, *June* 23.

Bankrupts.

THOMAS THOMPSON PONSONBY, Piccadilly, carver, July 7 at 11, and Aug. 3 at 1, London: Off. Ass. Nicholson; Sols. Ford & Lloyd, 5, Bloomsbury-square.—Pet. f. June 20.

ENOCH HUGHES and WILLIAM ADAMS, Sedgley, Staffordshire, ironfounders, July 6 and 27 at 10, Birmingham: Off. Ass. Christie; Sols. Bolton & Sanders, Dudley; Knight, Birmingham.—Pet. f. June 19.

EDWARD BANNISTER, Woodsetton, Sedgley, Staffordshire, maltster, July 3 and 23 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Bowen, Stafford; E. & H. Wright, Birmingham.—Pet. d. June 15.

WILLIAM PALMER, Wellingborough, Northamptonshire, lace manufacturer, (carrying on business with John Pringle and John Thurman, at Nottingham), June 30 and July 28 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, and Wells, Nottingham.—Pet. d. June 18.

EDWARD STRANGE, Swindon, Wiltshire, draper, July 6 and Aug. 3 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan, Bristol; Heather, 17, Paternoster-row.—Pet. f. June 10.

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THE JURIST.

LONDON, JUNE 27, 1857.

In our last number we considered the principles upon which the Court of Bankruptcy ought to act when exercising the discretion committed to it by the stat. 12 & 13 Vict. c. 106, with respect to a bankrupt's certificate of conformity. There is, however, one very important principle, to which want of space compelled us to forbear allusion. By the 198th section the Court is allowed to annex *such conditions to the certificate as the justice of the case may require.* Now, with respect to this clause, it has been decided that it must be read as if the words were "conditions within the jurisdiction and power of the Court;" (per Alderson, B., in *Grace* v. *Bishop*, 11 Exch. 424); and also that no condition can be annexed to the certificate which contravenes the policy or purposes of the bankrupt law. Thus in *Ex parte Hammond* (24 L. J., Bank., 2) it was thought unwise and impolitic to impose a condition that the certificate, either wholly or partially, should not have the effect of protecting after-acquired property. "If," it was said, "the bankrupt began to trade again, he laboured under a debt undischarged, and his undischarged creditors had power to enforce process against him, to the prejudice of subsequent creditors." (Per Sir G. J. Turner, L. J.) Instead of annexing such a condition, "the better course is to suspend the certificate, with liberty to apply." (Per Sir J. L. Knight Bruce, L. J., in *Ex parte Culhane*, 2 Jur., N. S., part 1, p. 863). Nevertheless, extreme cases may occur in which justice may require such a course to be taken. (Per Sir G. J. Turner, L. J., in *Ex parte Hodgson*, 3 De G., Mac., & G. 555). Thus, in *Ex parte Burghes*, (1 Fonb. N. R. 116), Mr. Commissioner Fonblanque held, that where a bankrupt has committed breaches of trust, the Court, in allowing the certificate, will annex a condition, that it shall not be available against the cestuis que trust; and in *Ex parte Wakefield*, (4 De G. & S. 18; 15 Jur., part 1, p. 961), where a bankrupt was alleged to have committed breaches of trust, it was ordered that the certificate should be so worded as not to protect him from any demands against him as trustee. In *Ex parte Hollingworth* also (4 De G. & S. 44; 15 Jur., part 1, p. 914) a certificate was granted, with a condition that it should do no more than protect the bankrupt's person from arrest. The bankrupt was a shipowner and insurance broker, and in 1833 had been made bankrupt, and paid 3*s.* 6*d.* in the pound. In 1835 he had made one composition with his creditors, and in 1846 he had made another, under which they received 5*s.* in the pound. In 1849 he signed a declaration of insolvency, and placed it in the hands of his solicitor. Afterwards he contracted new debts, without disclosing this circumstance, although without any false statement or misrepresentation. Sir J. L. Knight Bruce, V. C., alluding to the stat. 6 Geo. 4, c. 16, s. 127, appears to have said, although there is a slight variance between the reports, that the circumstances of the former bankruptcy and compositions imposed on the bankrupt the burthen of shewing, that, if he was entitled to any certificate, he was entitled to something more than a protection for his person, and that otherwise he ought not to be put in a more favourable situation than he would have been in under the former statute. However, in *Ex parte Hodgson*, where a similar condition had been annexed by a commissioner to the certificate of a bankrupt, who on a former occasion had compounded with his creditors, paying them only 5*s.* in the pound, it was remarked by the Court above, that the omission in the 12 & 13 Vict. c. 106, of a similar clause to that in the act of Geo. 4, that future assets were not to be discharged where, previously to the bankruptcy, there had been a composition, under which the trader had paid less than 15*s.* in the pound to his former creditors, was in the bankrupt's favour; and the condition was rescinded.

There are also two questions upon the construction of the 198th and 256th sections of the Bankrupt-law Consolidation Act, 1849, which have occasioned some controversy, and are, perhaps, not very easy to decide. The 198th section directs the Court to have regard to *the conduct of the bankrupt as a trader before as well as after his bankruptcy.* What, then, is *conduct as a trader?* In *Ex parte Spicer*, (3 De G. & S. 601; 14 Jur., part 1, p. 30), Sir J. L. Knight Bruce, V. C., held that the misapplication of money by a scrivener, which had been received into his trust or custody, but not received by him in his capacity of scrivener, was not conduct as a trader. In the same case, which was originally heard before Mr. Commissioner Stephen, that learned gentleman said that "gambling and extravagant expenditure might be conduct as a trader, though not immediately committed in the capacity of trader, because they tend to diminish the funds to which the trade creditors are entitled to look for payment." In *Ex parte Wakefield* it was laid down by the same judge who decided *Ex parte Spicer*, that breaches of trust by a bankrupt, not being in the way of trade, although the money due from him as a trustee finds its way into his trade, and is used by him as a trader, are not conduct as a trader within the meaning of the act. These cases are merely exclusive, but by no means satisfactory, and we very much doubt whether the doctrine contained in them is not too broadly stated. On the other hand, in *Ex parte Jardine*, (1 Fonb. N. R. 182), Mr. Commissioner Holroyd, commenting upon the case of *Ex parte Wakefield*, tells us that the word "trader," as used in the bankrupt acts, is a generic term, denoting a class of persons made liable to become bankrupt, and to be subject to the bankrupt law; and to regard the conduct of the bankrupt as a trader requires regard to his conduct not merely in the course of the particular trade which he carried on, but as one of such class of persons subject to the statute relating to bankrupts, by which statute all his estate of every description, whether acquired in the course of his trade or otherwise, is divisible among his creditors. All debts proveable, he goes on to say, must be treated as debts contracted by the bankrupt as a trader within the meaning of the bankrupt law; and the Court is to regard the conduct of the bankrupt in any matter concerning which the Court is authorised to call for information and discovery, bearing in mind that the statute contains provisions expressly limiting the power of inquiry to such matters as relate to the person, trade, dealings, or estate of the bankrupt, or any act of bankruptcy committed by him. One effect of this definition is, that if any person liable to become bankrupt has at any time, and whether during or in the course of trade or not, contracted any debt which would be proveable under the bankruptcy, his conduct in respect of that debt must be regarded by the Court upon the question of the certificate. When his Honor used the word "debt" it must be observed that he was alluding to *all debts or demands proveable under the bankruptcy*, and not merely to debts for the recovery of which there is a remedy by action at law. With this opinion of the learned commissioner the Lords Justices seem latterly to have become more inclined to concur. In *Ex parte Staner*, (2 De G., Mac., & G. 263; 16 Jur., part 1, p. 1124), Sir J. L. Knight Bruce, L. J., said, "If a man *happening to be in trade* obtains money fraudulently, *and not in the course of his business, that is conduct as a trader within the meaning of the act.*" And in the very recent case of *Ex parte Leslie*, (2 Jur., N. S., part 1, p. 822), Sir G. J. Turner, L. J., almost ventured to take the further step, when he hinted, that after it had been decided that conduct as a trader was not restricted to *conduct in trade*, it would be difficult thenceforth to confine it to *conduct during trade*. It was not necessary, however, in that case to decide the point, because the bankrupt had obtained a loan of money on the representation that he was a trader, and their Lordships were of opinion that he could not afterwards be heard to say that he was not that which, for the purposes of gain, he had represented himself to be. It is to be noticed, that in sect. 256 the phrase "as a trader" is omitted, and it is only under the ninth head, where the words "during his trading" occur, that any restriction to the time of trading is introduced; and these words, as appears from the same case, cannot elsewhere be implied. (Per Sir G. J. Turner, L. J.)

Again: when, in the exercise of the discretion conferred either by the 198th or 256th sections, a bankrupt's certificate has been refused, or when in cases falling within the 256th section it has been suspended, the Lords Justices, with the consent of the assignees and opposing creditors, have not unfrequently granted to the bankrupt a protection from arrest. (See *Ex parte Holthouse*, 1 De G., Mas., & G. 237, and *Ex parte Rufford*, 2 De G., Mac., & G. 234). We do not quite understand upon what principle their Lordships have proceeded in so acting. By the 256th section it is enacted, that if at the sitting appointed for the last examination of any bankrupt, &c. it shall appear to the Court that he has committed any of the offences thereinafter enumerated, the Court shall refuse to grant him any further protection from arrest; and if at any sitting, &c. for the allowance of the certificate of any bankrupt, it shall appear that he has committed any of such offences, the Court shall refuse to grant such certificate, or shall suspend the same for such time as it shall think fit, *and shall in like manner refuse to grant the bankrupt any further protection;* the words "in like manner" manifestly referring to the first part of the section. In the 198th section, on the other hand, there is no allusion to protection at all; and therefore it may be presumed, that in cases not falling within sect. 256, the Legislature intended to leave to the Court the authority, which is given to it by sect. 112, to grant protection for such time as the Court shall from time to time think fit to appoint, *until the certificate is allowed.* From this it follows, that if the Court, acting upon the general discretion intrusted to it by sect. 198, and upon that alone, suspends a bankrupt's certificate, protection may be granted; but not, we imagine, when the certificate is refused, because the 112th section contemplates cases "where the allowance of the certificate is sub judice, or still waiting the determination of the Court, and it does not apply to cases where the power of the Court to allow the certificate has become inoperative, as where the allowance of the certificate has been wholly refused, and the time for an appeal is past, and no grounds can be shewn for a rehearing." (Per Mr. Commissioner Holroyd in *Ex parte Gibson*). Moreover, the language of the 256th section is so precise and positive, that we cannot help thinking, that whenever a bankrupt has subjected himself to the penalty imposed by that clause, the discretion is restrained to the refusal or suspension of the certificate, and he cannot any longer be protected from arrest.

◆

An act to amend the Joint-stock Companies Act, 1856, is now on its passage through Parliament; and, as will be seen from the copy of the proposed bill, which has been printed by order of the House of Commons, it promises to supply some important omissions and to remedy some defects which have been already pointed out in these columns. At the same time there is ample room for improvement in the amendment act itself; and as the gentlemen by whom it has been introduced are, no doubt, anxious to render it as complete as possible, we venture to offer a few further suggestions which may contribute towards this desirable result.

Since the principal act was passed, one petition has already been presented to the Court of Bankruptcy, under sect. 69, for the winding up of a limited company; and upon this first occasion of testing the practical working of the act, so dangerous a flaw was discovered in the machinery, that it became doubtful whether it could be made to work at all. Fortunately the defect is one which can very easily be repaired, but it must be repaired with speed, or the proceedings of the Court may be at a stand-still. A very few words will be sufficient to explain the case. Upon the original hearing of the petition the first question which naturally occurred to the judge was—"Have I any and what jurisdiction in this matter?" and he proceeded to look into the act to see how this fact was to be ascertained. Now, by sect. 77 of the Joint-stock Companies Act, 1856, power is given to the Court, *after it has made an order or decree for winding up a company*, to summon before it any person whom the Court may deem capable of giving information concerning the trade, dealings, estate, or effects of the company, and to require any such person to produce books and documents, &c.; and any person so summoned refusing to attend is liable to be apprehended and brought compulsorily before the Court; and by sect. 78 the Court may examine upon oath, either by word of mouth or upon written interrogatories, any person appearing or brought before it in manner aforesaid, concerning the trade, dealings, estate, or effects of the company, and so forth. But, on the other hand, the judge was unable to find any provision similar to those in the Bankrupt-law Consolidation Act, 1849, sects. 100 and 260, or that in the 11 & 12 Vict. c. 45, s. 118, authorising the Court to compel the attendance of any witness, or to enforce the production of any evidence of any kind, *before it makes an order for winding up*. Under these circumstances, but for the voluntary attendance of witnesses at a subsequent hearing, and information obtained through a receiver, who had been appointed under sect. 84, it is very questionable whether the Court would have felt itself justified in making the order prayed. It is true that the petition for winding up a company must be supported by affidavit; but it is quite obvious that in many, indeed in most cases, particularly if the petition were opposed, a one-sided statement of this kind, emanating from persons whose veracity the judge would have no means of putting to the proof, might well be inadequate to satisfy his mind, and accordingly that no course might be left to him but to dismiss the petition. The evil thus brought to light, although escaped in the present instance, may at any time recur; and it is, therefore, to be hoped that an additional clause will be inserted in the amendment act (which is silent on this head) for the purpose of enabling the Court, before an order or decree has been made for winding up a company, to examine any witness, and to obtain any other evidence which it may think requisite to establish a proper case for the exercise of its powers. It might, perhaps, be argued that an authority to call for the necessary evidence is implied in the authority to make the order. But whenever a new statutory jurisdiction is conferred upon any Court, the law has ever been, that the Court shall regard the statute alone, and cannot act in a way which is not therein expressly sanctioned; nor can it, we think, for a moment be contended that the coerced attendance of witnesses is a mere matter of practice, so as to be brought with the 99th section of the principal act. Again: by the 89th section of the 19 & 20 Vict. c. 47, the official liquidators are to take into their custody all the property, effects, and things in action of the company; and by subsequent sections of the same statute, and also by sects. 16 and 17 of the proposed amendment act, they are enabled, for the purposes of winding up the company, to deal with its property almost in as ample a manner as if they were the absolute owners. But nevertheless neither by the one act nor the other is the property of the company *vested* in the official liquidators, and, notwithstanding the extent of their duties, they are in fact nothing more than mere receivers. We can hardly think it was intended that the character of receivership rather than of ownership should be impressed upon their office; but in any case we think it would be much more advisable to assimilate their position in this respect to that of the official manager under the old Winding-up Acts, or of the official assignee in matters of bankruptcy, and to vest in the official liquidators, or liquidator when only one is appointed, all the estate and effects of the company from the date of the appointment. We believe that many intricate subjects of controversy, particularly with respect to priorities of title and inchoate acts and agreements, may otherwise hereafter arise, which an enactment to this effect would altogether avoid. The 21st clause of the new bill was added to it while in committee, and like many extraneous additions similarly tacked on to other bills in the same stage of their progress, seems to have been too hastily and incautiously adopted. It enacts, that if at the expiration of twelve months from the date of the dissolution of any company that has been wound up, there remain in the hands of the liquidators any undistributed assets of the company, the liquidators shall be deemed to be trustees of these assets within the meaning of the Trustee Relief Act, 11 Vict. c. 96, and may pay or transfer them into the *Court of Chancery* accordingly. In cases of which the Court of Chancery has cognisance this may be a useful provision; but where the management of winding up the company is committed to the Court of Bankruptcy, it can serve no good end, and may occasion much useless expense. Besides the mischief invariably consequent upon a divided and conflicting jurisdiction, nothing surely can be more injudicious than that the Court, which has conducted all the proceedings up to the very last stage, and is familiar with all the details of the company's affairs, should of a sudden be superseded in its functions, and the control over the residue of the assets intrusted to another Court, which is an entire stranger to the rights of all the parties interested. It would be a much simpler and better plan to provide, that where a limited company is wound up upon petition, the liquidators should be deemed trustees of these assets, subject to the direction of the Court, or (which would be equally efficacious) to exclude such a case altogether from the 21st section, and then the surplus fund might be at once paid over to the accountant in bankruptcy, to be applied for the benefit of such persons and in such manner as the Court should order. The Court of Bankruptcy is quite as competent to deal with a surplus as the Court of Chancery; and it is just as unreasonable to foist the operation of the Trustee Relief Act upon the undistributed assets of a company which has been wound up under the superintendence of the former Court, as it would be to divert the residue of a bankrupt's or insolvent's estate from its original and legitimate channel of distribution. The last suggestion which at present occurs to us is only of importance so far as it will save a good deal of needless trouble, and some expense in drawing up the orders of the Court. Wherever the Legislature vests in any existing Court an entirely new, and not merely an enlarged jurisdiction, that Court is in exactly the same position as if it had been created by statute for that special purpose. Every order of the Court must state all the particular circumstances which may be necessary to shew that it has not exceeded the limits of the authority conferred upon it by the act. To obviate this inconvenience, the Bankrupt-law Consolidation Act, 1849, and other acts, contain a number of short forms of orders and certificates, adapted to all ordinary occasions. The Joint-stock Companies Act, 1856, however, contains none; and the amendment act of this year is at present equally barren. Still it may be thought expedient that the labour of preparing the requisite forms should devolve upon those persons who by the principal act are empowered to make rules for the regulation of the process of winding up companies in the respective courts. If so, all that would be required in the amendment act in this particular would be a short clause, calculated to embrace all the cases in which the Lord Chancellor and his assistants might omit, or think it unnecessary, to provide any general forms, and importing that in every order made by the Court in virtue of the act, it should be sufficient, in lieu of all other recitals, to state simply, that in the matter of the act, and of the particular company, certain parties had appeared on such and such a day, and were heard, and that it was then ordered as thereinafter set forth.

THE WILLS, &c. OF BRITISH SUBJECTS ABROAD.

Sir Fitzroy Kelly, Mr. Malins, and Lord Stanley have brought in a bill to "amend the law relating to the wills and to the granting of administration of the personal estate of British subjects resident or domiciled elsewhere than in England," of which we give the substance below.

If a test of the proficiency of candidates for the Bar is necessary or expedient, far more necessary and expedient is it that those who assume, not to administer, but to frame and amend the laws, should not be allowed to practise upon the country before they have submitted to an examination on at least the principles of jurisprudence and legislation, and the details of that branch of law with which they propose to meddle. We have heard of large fees being paid to the two learned gentlemen who have lent their names to this bill for their opinions on questions of law not very remote from the subject in hand, and have supposed their opinions to be entitled to some respect; but after reading this bill, it is difficult to resist the conclusion that either they have neglected the trust reposed by their constituents in them as lawyers, and have sanctioned a bill which they have never read or considered, or their legal studies have not been exhaustive. It is proposed to enact, by sect. 1, that "Every will, codicil, or other testamentary paper executed and attested according to the law of England for the time being by any British subject shall be valid and effectual, and admitted to probate, notwithstanding such subject shall at the time of his death, or at any other time, be or have been resident or domiciled elsewhere than in England, and shall operate in all respects as if such subject had died domiciled in England."

All lawyers know that all European nations agree in the rule, that the devolution and distribution of the moveable estate of a deceased person is regulated by the law of the place in which he died domiciled; the only doubt as to the extent of the rule being, whether it includes or does not include, wholly or in part, such interests in real or immoveable property as by the law of the place in which the property is situate are regarded as being of the nature of personal estate; and the main difficulty in the application of the rule being to decide in each particular case as to the fact of domicil—a doubt and a difficulty which, as might be expected from the framers of such a bill as this, are left wholly untouched. Leaving the doubt and the difficulty untouched, what is proposed to be done by this clause? But note, first, that it is not proposed to make the operation of the act, with reference to the property of any person dying abroad, conditional on the rule laid down by the act being adopted by the law of the country where he dies. Bearing in mind that this is not to be done by the act, our readers will be able to characterise what it is to do, after considering the following case:—Jones, a British subject, dies domiciled in Spain, being possessed of considerable personal property there, and entitled to goods and money in transitu from England, goods consigned to England for sale, stock in the British funds, debts due from creditors in England, bills of exchange drawn on and accepted by persons resident in Spain, but which bills he has deposited as a security with bankers in England, and goods and chattels and money situate in England. He leaves several children—some with a British, some with a Spanish, domicil; and he makes a will according to the English form, which is invalid by the law of Spain. Of course, so far as concerns the decision of the Spanish Courts, and the rights and liabilities of persons in Spain, the will is a nullity. But Sir F. Kelly and Mr. Malins have persuaded the British Legislature to say that "such will shall be valid and effectual, and operate in all respects as if such subject had died domiciled in England." The executors are bold enough to prove in England, and get in and administer all the property they can realise there. What are they to do with the Spanish bills? They go to Spain, and are there brought to account for misapplying the assets: must they appeal to the British consul and to Lord Palmerston?

It is scarcely worth while to notice, that though the clause suggests that a foreign domicil at the date of the will may invalidate it notwithstanding an English domicil at the death, it says that the will is to operate as if the testator had *died* domiciled in England.

2. "Administration of the goods of British subjects dying intestate shall be granted to the persons entitled to the same by the law of England for the time being, notwithstanding such subjects shall at the time of their deaths, or at any other time, be or have been resident or domiciled elsewhere than in England, in like manner as if such subjects had died domiciled in England."

3. "This act shall not apply to any will, codicil, or testamentary paper, or to the grant of administration of the goods, of any person who shall be dead at the time of the passing thereof."

4. "This act shall not apply to Scotland."

What does this mean? We know what it was intended to express; but does it not also express that the will of a British subject dying abroad, and rendered valid by the act, shall not be so rendered valid as to property locally situate in Scotland, and as to debtors and courts in Scotland?

The bill is framed in ignorance of the nature of the evils to be remedied. The evils are—first, that questions of domicil depend upon matters of evidence and fact, as well as of law, creating difficulties that probably cannot be removed by any legislation; and, secondly, that British subjects resident abroad are very apt to make their wills without regard to the law of their domicil. This difficulty is not to be met by creating greater difficulties—by making for them wills which no one can administer, and which, if administered, would have only a partial operation, dependent in its extent upon a thousand niceties of law and accidents of locality. The remedy, if a remedy can be found, is to be sought in establishing, by treaties with foreign states, and by legislation based on those treaties, the validity of wills of British subjects made in accordance with the English law.

BILL IN PROGRESS.

ABSTRACT OF A BILL

(As amended in Committee)

To amend the Joint-stock Companies Act, 1856.

Sect. 1. Short title of act.

2. Definition of principal act and Joint-stock Companies Acts.

3. Repeals the 4th section of the principal act, and enacts, that if more than twenty persons carry on in partnership any trade or business, having for its object the procurement of gain to the partnership, then, unless such persons—

(1). Are registered as a company under the principal act;
(2). Are a company incorporated or otherwise legally constituted by or in pursuance of some act of Parliament, royal charter, or letters-patent; or
(3). Are engaged in working mines within and subject to the jurisdiction of the Stannaries;

"each one of the persons so carrying on business in partnership together, contrary to this provision [sic], shall be severally liable for the payment of the whole debts of the partnership, and may be sued for the same without the joinder in the action or suit of any other member of the partnership."

4. The registrar shall, on payment of 5*s*., issue a certificate of incorporation of any company to any person applying for the same, and such certificate shall be admissible in evidence, in like manner as the certificate of incorporation directed to be given by the principal act.

5. Power of limited company to convert paid-up shares into stock.

6. Company to give notice of conversion of capital into stock. Penalty of 5*l*.

7. Register of holders of stock.

8. Remedy for improper entry, or omission of entry, in register of stock.

9. Power of the court, under the 25th section of the principal act, to decide on disputed questions.

10. Penalty of 1*l*. on company for not forwarding copies of memorandum and articles of association to shareholders.

11. Where an order has been made for winding up a company under the third part of the principal act, if, upon the application of the official liquidator, it appears to the court having jurisdiction in the matter of such winding up that there is probable cause for believing that any contributory to such company is about to quit the United Kingdom, or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the company, the court may, by warrant directed to such person or persons as it thinks fit, cause such contributory to be arrested, and his books, papers, monies, securities for monies, goods and chattels, to be seized, and him and them to be safely kept until such time as the court may order.

12. Contributory arrested, or whose goods are seized, may apply to court for discharge.

13. Calls under third part of principal act to be specialty debts.

14. In cases within the jurisdiction of the Court of Chancery in England or Ireland, or of the Court of Session in Scotland, or of the Court of the Stannaries, the court having jurisdiction shall, in the appointment of an official liquidator or official liquidators, consult the interests of both the creditors and contributories, and hear such creditors or contributories as it thinks fit to hear with respect to such appointment. It may, unless both the creditors and contributories concur in the appointment of a single liquidator, appoint one or more liquidator or liquidators to act on behalf of each of such parties. It may declare, that in case of difference, any act may be done by a majority of liquidators, or it may require the liquidators, in all cases of difference, to apply to the court. It may do anything hereby authorised to be done, either upon the first appointment of a liquidator, or at any subsequent stage of the winding up; but notwithstanding anything herein contained, it shall not be obligatory on the court to appoint more than one liquidator, if, in its discretion, it thinks that such appointment will be most conducive to justice.

15. In cases within the jurisdiction of any Court of Bankruptcy the official assignee shall, where a liquidator is appointed by the creditors, be considered as appointed as the representative of the contributories, and, where a liquidator is appointed by the contributories, be considered as appointed as the representative of the creditors.

16. The power of compromising debts and claims given by the principal act to the liquidators therein mentioned shall be deemed to extend to the compromise of any calls or debts due from any contributory or alleged contributory to the company on receipt of a smaller sum in lieu of a greater, or upon such terms as may be agreed upon, with power to the liquidators to take any security for any calls or debts so due, and to give effectual discharges on completion of such compromise; subject to this proviso, that no such compromise shall be made by any official liquidator except with the sanction of the court, and after giving such notice to creditors, and subject to such conditions as to obtaining the consent of creditors, or any portion of them, as the court may direct, and that no such compromise shall be made by the liquidators appointed on the voluntary winding up of a company, except with the sanction of a special resolution.

17. Where a company is being wound up voluntarily, and the whole or a portion of its property is about to be sold to another company, registered under this act, the liquidators of the first-mentioned company may, with the sanction of a special resolution of the company by whom they were appointed, receive, in compensation or part compensation for such sale, shares in such other company, for the purpose of distribution amongst the shareholders of the company being wound up, or may enter into any other arrangement whereby the shareholders of the company being wound up may, in lieu of receiving cash or shares, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing company; and any sale made or arrangement entered into by the liquidators in pursuance of this section shall be binding on the shareholders of the company being wound up; subject to this proviso, that if any shareholder in the company being wound up, who has not voted in favour of the special resolution passed by his company at either of the meetings held for passing the same, expresses his dissent from any such special resolution, in writing addressed to the liquidators or one of them, and left at the registered office of the company, not later than seven days after the date of the last of the meetings at which such special resolution was passed, such dissentient shareholder may require the liquidators to do such one of the following things as they may prefer; that is to say, either to abstain from carrying such resolution into effect, or to purchase the shares held by the dissentient shareholders or shareholder, at such price as may be agreed upon or settled by arbitration, such purchase money to be paid before the company is dissolved, and to be raised by the liquidators in such manner as may be determined by special resolution.

18. Power of liquidators to call general meeting.

19. Power of court to adopt proceedings of voluntary winding up.

20. Penalty on liquidators not reporting dissolution of company to registrar, 5*l*. per diem.

21. Liquidators having in their hands undistributed assets of the company may pay them into court under the "Act for better securing Trust Funds, and for the Relief of Trustees."

22. Repeals the 107th section of the principal act, and revives stats. 7 & 8 Vict. c. 110, and 10 & 11 Vict. c. 78, and the Limited Liability Act, 1855, as to any company completely registered which has not obtained registration under

the principal act, until such time as such company obtains registration under the Joint-stock Companies Acts, 1856, 1857, but from and after such time, and not before, shall be repealed as to such last-mentioned company; and, subject as aforesaid, all the acts mentioned in this section shall be removed.

23. Companies completely registered under the 7 & 8 Vict. c. 110, and registered under the principal act after the 3rd November, 1856, to be deemed effectually registered.

24. Repeal of sect. 110 of principal act.

25. Completely registered companies (except insurance companies) to register before the 2nd November, 1857.

26. Penalties on company not registering, viz.—

(1). The company shall be incapable of suing either at law or in equity, but shall not be incapable of being made a defendant to a suit either at law or in equity:

(2). No dividend shall be payable:

(3). Each director or manager of the company shall for each day during which the company is in default incur a penalty of 5*l*., and such penalty may be recovered by any person, and be applied by him to his own use.

27. Every company consisting of seven or more shareholders, having a capital of fixed amount, divided into shares, also of fixed amount, duly constituted by law prior to the passing of this act, and not being a company hereby required to be registered, may at any time hereafter, upon compliance with the provisions of the Joint-stock Companies Acts, 1856, 1857, register itself as a company under such acts, with or without limited liability; subject to this proviso, that no company shall be registered as a limited company unless either the liability of the shareholders is already limited to the amount of the unpaid calls on their shares, or an assent to its being so registered has been given by three-fourths in number and value of such of its shareholders as may have been present, personally, or by proxy, in cases where proxies are allowed by the regulations of the company, at some general meeting summoned for that purpose.

28. Power for existing company to register amount of stock instead of shares.

29. Provision as to list of shareholders required by sect. 111 of principal act.

30. Exemption of certain companies from payment of fees.

31. The 113th section of the principal act shall be repealed, and in lieu thereof be it enacted as follows:—Upon compliance with the requisitions of the Joint-stock Companies Acts, 1856, 1857, respecting registration, the registrar of joint-stock companies shall certify under his hand that the company applying for registration is incorporated as a company under the Joint-stock Companies Acts, 1856, 1857, and in the case of a limited company that it is limited, and thereupon such company shall be incorporated accordingly; and all provisions contained in any act of Parliament, deed of settlement, letters-patent, or other instrument constituting or regulating any company that has been registered under the provisions of the said 113th section, or any company that may hereafter be registered under this section, shall be deemed to be regulations of the company, in the same manner as if they were contained in a registered memorandum of association and articles of association; and all the provisions of the Joint-stock Companies Acts, 1856, 1857, shall apply to such company, in the same manner in all respects as if it had been originally incorporated under such acts, subject to the reservation in favour of creditors contained in the principal act, and to the following provisoes:—

(1). That Table B. shall not, unless adopted by special resolution, apply to any such company as is mentioned in this section:

(2). That no company shall have power to alter any provision contained in any act of Parliament relating to the company:

(3). That no company shall have power, without the sanction of the Board of Trade, to alter any provision contained in any letters-patent relating to the company:

(4). That nothing herein contained shall authorise any company to alter any such provisions contained in any deed of settlement, letters-patent, or other instrument constituting or regulating the company, as would, if such company had originally been incorporated under the Joint-stock Companies Acts, 1856, 1857, have been contained in the memorandum of association, and are not authorised to be altered by such last-mentioned acts:

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any existing company by virtue of any such act of Parliament, deed of settlement, letters-patent, or other instrument constituting or regulating the company: moreover the repeal of the said 113th section of the principal act shall not affect any right acquired under the section so repealed.

Court Papers.

EQUITY CAUSE LISTS, AFTER TRINITY TERM, 1857.

⁂ The following abbreviations have been adopted to abridge the space the Cause Papers would otherwise have occupied:—*A.* Abated—*Adj.* Adjourned—*A. T.* After Term—*Ap.* Appeal—*C. D.* Cause Day—*Cl.* Claim—*C.* Costs—*D.* Demurrer—*E.* Exceptions—*F. D.* Further Directions—*M.* Motion—*P. C.* Pro Confesso—*Pl.* Plea—*Ptn.* Petition—*R.* Rehearing—*S. O.* Stand Over—*Sh.* Short.

Before the LORDS JUSTICES.

APPEALS.

Perkins *v.* Green
In re Green
Green *v.* Green
Davey *v.* Durrant (App., part heard)
Davey *v.* Durrant
Smith *v.* Durrant (App. M)
Smith *v.* Durrant (M for decree)
Decks *v.* Stanhope (4)
Findon *v.* Findon
Fyfe *v.* Arbuthnot
Wakefield *v.* Gibbon
In re Brandon
Hall *v.* Hall (Furth. cons., Appeal M)
Childers *v.* Childers
Fielding *v.* Smith (5)
Vardon *v.* Bower
Gordon *v.* Lowe
Holl *v.* Gordon
Blackmore *v.* Snee.

Before the Right Hon. the MASTER OF THE ROLLS.

CAUSES, &c.

Wade *v.* Tennant (E to answ.)
Owens *v.* Kirby (M for dec.)
In re Trappes
Wilson *v.* Barrow (Fur. con. from ch.)
In re Hale
Webeter *v.* O'Connor (Fur. cons.)
Norris *v.* Bramble (Further consideration)
Bromer *v.* Lambe (Further consideration)
Higgins *v.* Pettman (Further consideration)
Barnewall *v.* Lord Clifford (Further consideration)
Vielett *v.* Brookman (Further consideration)
Fletcher *v.* Barnard (Further consideration)
Stainton *v.* Carron Co. (M for decree)
Vincent *v.* Spicer (Further consider. from chambers)
Irwin *v.* Hamer (Cause)
Spencer *v.* Pearson (M for decree)
Noble *v.* Brett, otherwise Hodges (M for decree)
Noble *v.* Brett (Further cons.)
Chorley *v.* Bellett (M for dec.)
Addams *v.* Bellett (Further consideration)
Longstaff *v.* Barker (Cause)
Page *v.* Page (Cause)
Cubitt *v.* Sturgis (Cause)
Sparling *v.* Bennett (Further consideration, Summons to vary certificate)
Stephens *v.* Breton (Cause)
Att.-Gen. *v.* Bushby (Cause)
Brooks *v.* Dingley (M for dec.)
Jones *v.* Jones (Cause)
Perry Herrick *v.* Attwood (Cause)
Holmes *v.* Baldwin (Cause)
Stevenson *v.* Beaumont (M for decree)
Nesbit *v.* Huxham (M for decree)
Pearce *v.* Spencer (Cause)
De Sorbein *v.* Bland (Further consideration)
Hartley *v.* Ostler (Further consideration)
Robins *v.* Robins (M for dec.)
Wich *v.* Parker (Cause)
Bone *v.* Pollard (Further consideration)
Holiwell *v.* Holgate (Further consideration)
Pearson *v.* Tulk (Cause)
Pearson *v.* Spencer (Cause)
Pearson *v.* Pearson (Cause)
Edwards *v.* Rowe
Bennion *v.* Edwards (Furth. cons.)
Holland *v.* Allsop (M for dec.)
Fry *v.* Fry (M for decree)
Wynne *v.* Fletcher (Sp. case)
Preston *v.* Bowerman (Cause)
Flower *v.* Gedye (Further consideration, C)
Bather *v.* Kearsley (F D, C)
In re Mackinlay
Ward *v.* Mackinlay (Sum., Fur. cons., adj. from ch.)
Wallis *v.* Tonge (Further consideration)
Bridgman *v.* Gill (Cause)
Kerr *v.* Pawson (M for dec.)
Cowdell *v.* Varnon (M for decree)
Armstrong *v.* Armstrong Further consideration)

Osborn v. Reid (Further consideration)
Bruce v. Toker (Further consideration)
Sharpe v. Cooper (Further consideration)
Smith v. Ryder (M for decree)
Dawson v. Prince (Cause)
Wells v. Corporation of Gravesend (M for decree)
Croft v. Goldsmid (Cause)
Rackham v. Gilbert (Further consideration)
Barker v. Partridge (M for decree)
Hoblyn v. Langley (Further consideration)
Ruxton v. Poingdestre (Further consideration)
Caswall v. Saunders (M for decree)
Harvey v. Bayfield (Cause)
Pattinson v. Pattinson (M for decree)
Swinfen v. Swinfen
Swinfen v. Swinfen } (Cause)
Cruttwell v. Mee (Further consideration, Summons to vary certificate)
Ridgway v. Clare (4) (E to Master's report, F D, C)
Att.-Gen. v. Dean, &c. of Windsor (M for decree)
Goddard v. Clay (M for dec.)
Trail v. Herbert (M for dec.)
Booth v. Brooke (M for dec.)
Carter v. Carter (Further consideration)
Somersetshire Coal Canal Co. v. Harcourt (M for decree)
Brown v. Woods (M for dec.)
Gibson v. Holmes (Further consideration)
Goodfellow v. Reading (M for decree)
Morris v. Parrott (M for dec.)
Delahay v. Batchelor (M for decree)
Sullivan v. Sullivan (M for decree)
Challenor v. Thompson (Cau.)
Stratford v. Baker (M for dec.)
Hawkins v. Wolston (M for decree)
Gover v. Towers (M for dec.)
Devey v. Bridges (Cause)
Tweedale v. Hulme (M for decree)
Smith v. Port Tenant Patent Steam Fuel and Coal Co. (M for decree)
James v. James (Further consideration)
In re Strong
Pepper v. Smith } (Further cons., adj. from chambers) *Sh*
Allen v. Herring (M for dec.)
Lindsay v. Bond (M for dec.)
Law v. Humphries (Cause)
Sturgis v. Morse (Cause)
Booth v. Goodlad (Cl)
Edwards v. Ryder (Further consideration)
Rennie v. Young (Cause)
Bloxham v. Whipham (Cause)
Martin v. Patching (Cause)
In re Reeve
Moxon v. Reeve } (Fur. cons. of matter & cause, adj. from ch.)
Roberts v. Crofts (F D, C)
Simmons v. Willyams (M for decree)
Martin v. Brunning
Crosby v. Brunning } (Further consid.)
M'Dermott v. Doyle (M for decree)
Fell v. Sulman (M for decree)
Evans v. Evans
Rudge v. Hicks } (Further considerat.)
Duncan v. Bolton (M for dec.)
Wheaton v. Graham (Cause)
Pemberton v. Pemberton (Sp. case)
Shackleton v. North (M for decree) *Sh*
In re Weeks
Szlumper v. Lym } (Further consider., adj. from chambers)
Mould v. Liddle (Cause)
Barker v. Wolley
Barker v. Wolley } (Further consider.)
Att.-Gen. v. Leather Sellers' Co. (E to Master's report, F D, C)
Slaughter v. Capel (Cause)
Blamey v. Sobey (Cause)
Trezevant v. Broughton (Cau.)
Earle v. Bellingham (M for decree)
Rutter v. Marriott (E to Master's report, F D, C)
Swayne v. Haynes (3) (Further consideration)
Ellston v. Oades (M for dec.)
Kingsford v. Kingsford (Cl) *Sh*
Duerden v. Lancaster (Further consideration)
Cheesman v. Collinson (M for decree)
In re Hall
Hall v. Lawrence } (Further consider., adjd. from chambers)
Page v. May (M for decree)
Lefevre v. Freeland (Sp. case)
Lowe v. North (Cause)
Mason v. Lawrence (Further consideration)
Blincow v. White (M for dec.)
Tidswell v. Tidswell (Further consideration) *Sh*
Yeats v. Yeats (5) (Further consideration, Ptn)
Mott v. Goode (Cause)
In re Trappes
Wilson v. Barrow } (Further consider., adjd. from chambers)
Skirving v. Williams (Sp. ca.)
Williams v. Hughes (Further consideration)
Douthwaite v. Spensley (Further consideration)
Marsh v. Goodall (Further consideration)
Gurney v. Fraser (M for dec.)
Curtain v. Ernest (Further consideration)
Boag v. Stanfen (M for dec.)
Augrave v. Wing (Cause)
Tingle v. Shields (M for dec.)
Draysdale v. Porter (Further consideration)
Bentley v. Meech (M for dec.)
Wovenden v. Bowe (Cl)
Withington v. Grace (Cl)
Mason v. Tibbitts (M for dec.)
Alsop v. Bell (Cause).

Before Vice-Chancellor Sir RICHARD T. KINDERSLEY.

CAUSES, &c.

Garner v. Briggs (Cause, part heard)
Wentworth v. Chevell (F D, C)
Batkin v. Brown (M for dec.)
Gibbs v. Manning (Further consideration)
Att.-Gen. v. Sheppard (Further consideration)
Wilkinson v. East (Cl)
Wilcox v. Harrop (Further consideration)
Parton v. Parton (Cause)
Sclater v. Cottam (Further consideration)
Evans v. Jones (Further consideration)
Randfield v. Randfield (Cause)
Thomas v. Jones
Silvester v. Thomas } (Further consid.)
Gimson v. Downing (Cause)
Cotgreave v. Walmsley (F D, C)
Whiting v. Slater (M for dec.)
Foss v. Churchward (Cause)
Darbey v. Whitaker (Cause)
Austin v. Urquhart (M for decree)
Waterhouse v. Branston (Further consideration)
Staunton v. Berrington (Cau.)
Cochrane v. Cochran
Barton v. Colvin
Lord v. Colvin
Lord v. Colvin
Lord v. Colvin } (Rehear.)
Saul v. Whitaker (Cl)
Butler v. Lowe (Further consideration)
Struthers v. Struthers (M for decree)
Garratt v. Lancefield
Garratt v. Drake
Garratt v. Drake } (Furth. considerat.)
Fletcher v. Mulliner
Fletcher v. Mulliner and 11 other caus. } (F D, C)
Smith v. Kingston (Further consideration) *Sh*
Violet v. Finch (Cause)
Fleming v. Fleming (Further consideration)
Moorhouse v. Colvin (Cause)
Crow v. Taylor (M for decree)
Selby v. Fraser (Cause)
Wilson v. Leslie (M for decree)
Bozzoni v. Rogerson (Cause)
Fry v. Dadswell (Cl)
Leggo v. Richards (M for decree)
Riches v. Riches (Further consideration)
Price v. Pugh (F D, C)
Johnson v. Routh (Cause)
Broadhurst v. Gerrard (M for decree)
Nevin v. Smith (M for decree)
Fox v. Charlton (M for dec.)
Sadd v. Bailey (Further consideration).

Before Vice-Chancellor Sir J. STUART.

CAUSES, &c.

Booth v. Coulton (Further consideration)
Booth v. Alington (3) (Further consideration)
Jowett v. Bentley (Cause, part heard) *July* 1
King v. King (M for decree)
Lane v. Ansell (Cause)
Spong v. Straight (Cause)
Nelson v. Booth (M for dec.)
Webster v. Webster (Cause)
Prudence v. Sutton (M for decree)
Hodson v. Roberts (M for decree)
Waters v. Waters (Further consideration)
Halliley v. Henderson (M for decree)
Griffin v. Watts (M for dec.)
Tanner v. Barton (M for dec.)
Scott v. Mayor of Liverpool (Cause)
Gooch v. Slater (Cause)
Forsyth v. Inglis (Cause)
Jesse v. Bennett (M for dec.)
Wood v. Scarbrough (2) (Further consideration)
Horne v. Shepherd (2) (F D, C)
Charlton v. Elgar (Further consideration)
Horne v. Warr (Further consideration, Ptn)
Jones v. Vaughan (Cause)
Mesher v. Lane (Further consideration, M)
Blackmore v. Blackmore (Ca.)
Sayer v. Bevan (M for decree)
Backhouse v. Wylde
Backhouse v. Sturgis } (Fur. cons.)
Raiker v. Pike (M for decree)
Le Clair v. Richards (M for decree)
Hobson v. Searle (Cl)
Beloe v. Brame (Cause)
Viscount Ranelagh v. Lithgow (Cl)
Stone v. Stone (Cause)
In re Hemsley's Estate
Bostock v. Wildbore } (Further considerat. from chambers)
Thomas v. Phillips (2) (F D, C)
Osborn v. Walker (Cause)
Bowes v. Goslett (M for dec.) *Sh*
Stokes v. Crompton (Further consideration)
Dendy v. Bagshaw (Cause)
Heath v. Dodman (M for dec.)
Winstone v. Baroness Windsor (M for decree)
Weldon v. Hylton (M for decree)
Weldon v. Youard
Weldon v. Fletcher } (F D, C)
Searle v. Smales (Further consideration)
In re Hierons' Estate
Courage v. Hierons } (Further considerat. from chambers, Ptn)

Johnson *v.* Lawrence (M for decree)
Foster *v.* Cantley (Further consideration)
In re Canning's Estate
Wallis *v.* Bell (Fur. con.)
Eyre *v.* Barrow (M for decree)
Thackwell *v.* Macefield (M for decree)
Naylor *v.* Wright (Cause)
Skelton *v.* Cole (M for decree)
Woodburne *v.* Woodburne (Further consideration)
Farebrother *v.* Gibson (Cause, Ptn)
Stonehouse *v.* Dobing (F D, C)
Evans *v.* Richards
Jones *v.* Richards (Further consid.)
Beech *v.* Viscount St. Vincent (M for decree)
Woodward *v.* Woodward (M for decree)
Helmer *v.* Addison (Cause)
Holt *v.* Bailey (Cause)
Langhorne *v.* Harland
Morley *v.* Harland (Further consid., M)
Birch *v.* Sewell (2 Ms to vary certificate)
Davies *v.* Nicholson (M for decree)
Aitkin *v.* Bollard (F D, C)
Skinner *v.* Chave (Further consideration)
Gratrix *v.* Chambers (2) Further consideration)
Metaxa *v.* Wilkie (Cause)
Griffiths *v.* Banks (M for dec.)
Dobson *v.* Pattinson (Cause)
Pell *v.* De Winton (M for dec.)
Charleton *v.* Jenkinson (Further consideration)
Turner *v.* Tattersall (Cause)
Weston *v.* Wood (F D, C, Ptn)
Beeby *v.* Starling (Cause)
Whitaker *v.* Carrick (M for decree)
Hodgson *v.* Lett (F D, C)
Lewis *v.* Eyton (M for decree)
Wedderburn *v.* Wedderburn (M for decree)
Holt *v.* Sindrey (M for decree)
Kent *v.* Berchley (M for dec.)
Southern *v.* Sidney (M for decree)
Snow *v.* Blake (M for decree)
Allen *v.* Walton (M for decree)
Sullivan *v.* Parker (Cause)
In re Lightfoot
Bingham *v.* Stevens (Further considerat. from ch.)
Welson *v.* Howson (M for decree) *Sh*
Hawker *v.* Vizard (M for dec.)
Shearly *v.* Fossick (Cause)
Bennett *v.* Jones (Further consideration)
Lacey *v.* Ramsdale (M for decree)
Taylor *v.* Linley (M for dec.)
Playsted *v.* Goold (Cause) *Sh*
Fuller *v.* Morgan (M for dec.)
Watson *v.* Argile (Cause)
Mason *v.* Mason (M for dec.)
Hutton *v.* Taylor
George *v.* Taylor (Cause)
Radcliffe *v.* Witham (Further consideration)
Jones *v.* Binnion (M for dec.)
Jones *v.* Parry (Further hear.)
Barras *v.* Grey (M for decree)
Heacock *v.* Dean (M for dec.)
Roberts *v.* Browne (M for decree)
Matthews *v.* Boughton (M for decree)
In re Shepherd
Shepherd *v.* Kennard (Further consider. from ch.)
Curtis *v.* Blake (M for decree)
Charlesworth *v.* Scatcherd (Further consideration)
Att.-Gen. *v.* Dean, &c. of Christchurch, Oxford, (F D, C)
Railton *v.* Branscombe (Cau.)
Tyrer *v.* Broome (M for dec.)
Hare *v.* Listowel (Further consideration)
Abney *v.* Dolphin (Further consideration)
Treherne *v.* Fuller (Cause)
Campbell *v.* Campbell (Cause)
Hudson *v.* Mabon (M for decree)
Bartrum *v.* Ford (Further consideration)
Wilkinson *v.* Wilkinson (M for decree)
Labouchere *v.* Murchison (Further consideration)
Thompson *v.* Whitelock (M for decree)
In re Law
Beyer *v.* Adams (Further considerat. from ch., 3 summns.)
Cocks *v.* Gray (Further cons.)
Sumner *v.* Strachan (Further consideration)
Blamire *v.* Blamire (M for decree)
Propert *v.* Rowlands (Further consideration)
Jeffery *v.* Turland (Cause)
Leifchild *v.* Prince (Cl).

Before Vice-Chancellor Sir W. P. WOOD.

CAUSES, &c.

Lovett *v.* Lovett
Lovett *v.* Wallis (Fur. con., equity reserved, pt. heard)
Joel *v.* Mills (M for decree, part heard)
Hicks *v.* Hastings
Hicks *v.* Hastings (Cause, pt. heard)
Peers *v.* Meddowcroft (D)
Potts *v.* Potts (M for decree)
Baker *v.* Armitage (M for decree)
Hounsel *v.* Edwards (M for decree)
Hay *v.* Ker (Further consid.)
Marsh *v.* Means (M for dec.)
Smith *v.* Lord Dacre (M for decree)
Garrett *v.* Kennedy (Further consideration)
Clarke *v.* Ronald (Cause)
Janes *v.* Page
Mingay *v.* Page (Cause) *July* 1
Monypenny *v.* Monypenny (Further consideration)
Holland *v.* Johnson (M for dec.)
Bennett *v.* Adamson (M for decree)
Roberts *v.* Pollard (M for decree)
Pollard *v.* Wilson (M for dec.)
Taylor *v.* Hopkins (Cause)
Tovell *v.* Eastern Union Railway Co. (Cause)
Company of Proprietors of the Leominster Canal Navigation *v.* Shrewsbury & Hereford Railway Co. (Cause)
Browne *v.* London Necropolis & National Mausoleum Co. (Cause)
Dugdale *v.* Robertson (M for decree) *July* 4
East Anglian Railway Co. *v.* Goodwin (Cause)
Bell *v.* Adams (Further consideration, Ptn)
Robins *v.* Pearse (M for dec.)
Howell *v.* Charles (Cause)
Forbes *v.* Forbes (Cause)
Holmes *v.* Eastern Counties Railway Co. (M for decree)
Hall *v.* Burt (Cause)
Brooke *v.* Garrod (M for decree)
Whateley *v.* Spooner (M for decree)
Tomlinson *v.* Harnew (Cause)
Salisbury *v.* Denton (M for decree)
Hodsoll *v.* Bird (Cause)
Churchward *v.* Jackson (Further consideration)
Atkinson *v.* Atkinson (M for decree)
Preece *v.* Seale (Cause)
Davison *v.* Robinson (Cause)
Kennedy *v.* Sedgwick (M for decree)
Shribley *v.* Lambert
Shribley *v.* Lambert (Furth. cons.)
Cummins *v.* Bromfield (Further consideration)
Carter *v.* Carter (Further consideration)
Spicer *v.* Fox (Special case)
Claydon *v.* Finch (Further consideration)
Calvert *v.* Johnson (Sp. case)
Goodman *v.* Sherwood (Further consideration)
Sympson *v.* Prothero (M for decree)
Toynbee *v.* Duckering (Further consideration)
Snelgar *v.* Chambers (M for decree)
Addenbrooke *v.* Ormes
Addenbrooke *v.* Ormes (Fur. con.)
Marshall *v.* Jones (Cause)
Hervey *v.* Mills (M for decree)
Chambers *v.* Flood (M for decree)
Shore *v.* Cooke (Further consideration)
Swire *v.* Cottrell (Sp. case)
Yearsley *v.* Yearsley (Further consideration, M to vary certificate)
Marsland *v.* Mitarachi (Cause)
Meggy *v.* Essell (M for dec.)
Fox *v.* Jackson (M for dec.)
Shaw *v.* Postlethwaite (Cause)
Purser *v.* Darby (M for dec.)
Knight *v.* Schneider (Cl)
Jones *v.* Dudson (Cause)
Crowther *v.* Sutcliffe (Cause)
Keith *v.* Partridge (M for decree)
Kitson *v.* Shaw (M for decree)
Christmas *v.* Elderton (Cause)
Hanson *v.* Reece (M for dec.)
Cutler *v.* Cutler (M for dec.)
Holloway *v.* Poole (F D, C)
Lomax *v.* Sutton (Cause)
Holmes *v.* Sturgis (M for dec.)
Shaw *v.* Fryer (Cause)
Sanders *v.* Clayton (Cause)
Jenkins *v.* Jenkins (M for decree)
Hamond *v.* Walker (Cause)
Basket *v.* Skull (F D, C)
Emerson *v.* Mason (M for decree)
M'Mahon *v.* Herne (Cause)
Roberts *v.* Evans (Further consideration)
Hanman *v.* Riley (Further consideration) *Sh*
Att.-Gen. *v.* Pretyman
Att.-Gen. *v.* Dean, &c. of Lincoln (E to rep.)
Att.-Gen. *v.* Pretyman
Att.-Gen. *v.* Dean, &c. of Lincoln (F D, C)
Att.-Gen. *v.* Pretyman
Att.-Gen. *v.* Bishop of Lincoln (F D, C)
Humphrey *v.* Stevens (3) (Further consideration)
Richardson *v.* Adams (M for decree)
Hatton *v.* Att.-Gen. (Cause) *Sh*
Powell *v.* Bird (Further consideration) *Sh*
Soar *v.* Foster (Cause)
Lecoy *v.* Mogford (Further consideration)
Gunsted *v.* Marsh (Cause)
Clubb *v.* Harris (Cause)
Talbot *v.* Hemshead (Cause)
Handley *v.* Worthington (M for decree)
Barlow *v.* Barlow (Further consideration) *Sh*
Merryweather *v.* Walker (Sp. case)
Alexander *v.* Alexander (M for decree)
Story *v.* Gape (Further cons.)
Smith *v.* Hurlbutt (Further consideration)
Brown *v.* Stockton and Darlington Railway Co. (M for decree)
Wilkinson *v.* Wilkinson (Ca.)
Spike *v.* Manners (Further consideration)
Chappell *v.* Haynes (Sp. case)
Hill *v.* Walker (Cause)
Zuccani *v.* Reay (Further consideration)
Wycherley *v.* Barnard (M for decree)
Goodman *v.* Robinson (M for decree)
Rimell *v.* Aylett (Further consideration) *Sh*
Green *v.* Harrison (Further consideration)
Claughton *v.* Jackson (M for decree)
Vandenberg *v.* Palmer (Cause)
Bourdillon *v.* Roche (Cause)
M'Neillie *v.* Acton
Bullock *v.* Acton (Further consid.)
Martin *v.* West of England Fire and Life Insurance Co. (Cause).

WILLIAM LINDOP, New-road, Talk-o'-th'-Hill, Staffordshire, miller, July 8 and 29 at half-past 10, Birmingham: Off. Ass. Whitmore; Sols. Cooper, Tunstall, Staffordshire; Hodgson & Allen, Birmingham.—Pet. d. June 18.

AUGUSTUS SALTER, Swansea, Glamorganshire, grocer, July 6 and Aug. 3 at 11, Bristol: Off. Ass. Acraman; Sol. Goolden, Bristol.—Pet. f. June 13.

JOSEPH EDWARD BLECH, Liverpool, merchant, July 13 and Aug. 10 at 11, Leeds: Off. Ass. Hope; Sol. Blackburn, Leeds.—Pet. d. June 13.

WILLIAM HENRY BROWN, Sheffield, merchant, July 11 and Aug. 8 at 10, Sheffield: Off. Ass. Brewin; Sol. Unwin, Sheffield.—Pet. d. June 20.

WILLIAM MORRIS, Liverpool, grocer, July 7 and Aug. 3 at 11, Liverpool: Off. Ass. Morgan; Sol. Etty, Liverpool. —Pet. f. June 18.

MEETINGS.

James B. Hill, Blackfriars-road, china dealer, July 6 at 1, London, pr. d.—*Wm. Hadfield*, Cockspur-street, Middlesex, commission agent, July 7 at 12, London, last ex.—*J. Wilkinson*, Sittingbourne, Kent, railway contractor, July 16 at 12, London, last ex.—*Wm. P. Garrard*, Little Tower-street, City, wine merchant, July 8 at 11, London, aud. ac.—*Thos. Richards*, Aberystwith, Cardiganshire, draper, July 9 at 11, Bristol, aud. ac.—*Richard John Hicks*, West Derby, near Liverpool, dealer in cattle, July 3 at 11, Liverpool, aud. ac. —*Frederick Bliedberg* and *Marc Saran*, Liverpool, commission merchants, July 6 at 11, Liverpool, aud. ac.—*Thomas Firmston*, Shrewsbury, builder, July 10 at half-past 11, Birmingham, aud. ac.—*Isaac Beck*, Birmingham, licensed victualler, July 10 at half-past 11, Birmingham, aud. ac.—*Benjamin Collins*, Toll End, Tipton, Staffordshire, boat builder, July 6 at half-past 10, Birmingham, aud. ac.—*Knowlton Wilson*, Sheffield, surgeon, July 4 at 10, Sheffield, aud. ac.—*Thomas J. Creswick*, Sheffield, electro-plated goods manufacturer, July 4 at 10, Sheffield, aud. ac.—*John Peto* and *John Bryan*, Dacre-street, Westminster; Liverpool; and Willow-walk, Bermondsey, Surrey, army contractors, July 16 at 11, London, div.—*M. Gladstone* and *Joseph C. Bond*, Manchester, general brokers, July 6 at 12, Manchester, aud. ac. joint. est., and aud. ac. sep. est. of *Joseph C. Bond;* July 15 at 12, div. joint est., and div. sep. est. of *Joseph C. Bond.*—*Robert R. Charles* and *Wm. Fordyce*, Haughton, Northumberland, paper manufacturers, June 17 at 11, Newcastle-upon-Tyne, fin. div.—*Wm. Doeg* and *John Skelton*, Newcastle-upon-Tyne, timber merchants, July 16 at 12, Newcastle-upon-Tyne, div.—*J. Vernon*, Low Walker, Northumberland, iron-ship builder, July 17 at 11, Newcastle-upon-Tyne, div.—*Thomas Burnet*, Blaydon, Durham, glass-bottle manufacturer, July 15 at 11, Newcastle-upon-Tyne, div.—*George Cavens*, Carlisle, jeweller, July 16 at half-past 11, Newcastle-upon-Tyne, fin. div.—*John Nicholson*, Walton Lodge, West Derby, surgeon, July 16 at 11, Liverpool, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Bryan, Dyer's-buildings, Holborn, electro plater, July 16 at 11, London.—*James Catt*, High-street, Southwark, Surrey, and Lewisham and Greenwich, Kent, hop merchant, July 14 at 1, London.—*James Wood*, Manchester, cheese factor, July 15 at 12, Manchester.—*Robert H. Bryan*, Lincoln, clock maker, July 22 at 12, Kingston-upon-Hull.—*John Jobson*, Derby, stove manufacturer, July 28 at half-past 10, Nottingham.

To be granted, unless an appeal be duly entered.

Joseph F. King, Belle Vue-villas, Seven Sisters-road, Holloway, builder.—*Henry J. Hawkins*, Midway-terrace, Lower-road, Rotherhithe, licensed victualler.—*J. Williams*, Rochester-terrace, Vauxhall-bridge-road, tailor.—*George Augustus H. Chichester*, York-buildings, Adelphi, commission agent.—*John Gillam*, Devereux-court, Strand, and *Wm. H. Tayler*, City-road, and Poultry, City, licensed victuallers.—*J. Foord*, Charlton, Kent, licensed victualler.—*Alexander Oldfield*, Devonshire-street, Queen-square, Bloomsbury, bookbinder.—*Henry Mundy*, Gloucester, ironmonger.—*Henry Bishop*, Dursley, Gloucestershire, money scrivener.—*John Richards*, Aberystwith, Cardiganshire, draper.—*Wm. Calvert* and *Wm. Calvert* the younger, Sunderland, hardwaremen.—*John Jones Roberts*, Liverpool, metal broker.—*Joseph Mascall*, Wolverhampton, grocer.—*James S. Harvey*, Birmingham, grocer.

SCOTCH SEQUESTRATIONS.

David Swan, Glasgow, confectioner.—*Henry Smethurst*, Glasgow, hat manufacturer.—*Charles H. Haigh*, Glasgow, manufacturing chemist.

ORDER OF COURT.

WHEREAS it is proper that the accounts kept by the Accountant-General of this Court should be examined and compared, in order to settle the same; and whereas it will require considerable time to perfect such examination, and it is necessary that a time should be appointed for closing the books of accounts of the said Accountant-General for the purposes aforesaid, I do order that the books of the said Accountant-General be closed from and after Thursday, the 20th August next, to Wednesday, the 28th October next, inclusive, excepting upon the days and for the purposes hereinafter mentioned, in order to adjust the accounts of the suitors with the books kept at the Bank, and that during that time no draft for any money, except as hereinafter provided, or certificate for any effects under the care and direction of this Court, be signed or delivered out by the said Accountant-General, or any stocks or annuities accepted or transferred by him relating to the suitors of this Court; and that no purchase, sale, or transfer be made by the said Accountant-General, unless the order, request, or registrar's certificate be left at his office on or before Monday, the 10th August next; and that no order for payment of any money out of court which may be then in court be received at the Accountant-General's office after Wednesday, the 12th August next. Provided, nevertheless, that the office of the said Accountant-General shall be opened on Wednesday, the 14th, Thursday, the 15th, and Friday, the 16th October next, for the delivery out of any regular interest drafts which have become payable in respect of the October dividends, and of any other regular interest drafts which shall have become payable during the closing of the office as aforesaid. And to the end that the suitors may have notice hereof, and apply to the Court as there shall be occasion to have money paid to them out of the Bank or stocks, or annuities transferred to them, before the said 20th August next, I do order that this Order be entered and affixed up in the several offices of this court.

CRANWORTH, Chancellor.

The Queen has been pleased to confer the honour of Knighthood upon William Fry Channell, Esq., one of the Barons of her Majesty's Court of Exchequer; Charles Cooper, Esq., Chief Justice of the Supreme Court of South Australia; and Henry Singer Keating, Esq., her Majesty's Solicitor-General.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—John Miller, of Bristol, in and for the city of Bristol, and county of the same city, also in and for the county of Somerset; William Ormond, of Swindon, Wiltshire, in and for the county of Wilts; John Rand Capron, of Guildford, Surrey, in and for the county of Surrey; and Alexander Richard Payne, of Milverton, Somersetshire, in and for the county of Somerset.

MEMBER RETURNED TO SERVE IN PARLIAMENT.—David Pugh, Esq., for the county of Carmarthen, in the room of David Arthur Saunders Davies, Esq., deceased.

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GAZETTES.—Friday, *June* 26.

Bankrupts.

THOMAS HAWKES, Dudley, Worcestershire, glass manufacturer, and of Liverpool, merchant, and of Garston, Lancashire, salt manufacturer, and of Paddington, Middlesex, (but now a prisoner in the Queen's Prison, Surrey), July 2 and 30 at 11, London: Off. Ass. Bell; Sols. Lewis & Lewis, Ely-place, Holborn.—Pet. f. June 20.

JOSEPH SELF, Stanhope-street, Clare-market, builder, July 9 at half-past 12, and Aug. 6 at half-past 11, London: Off. Ass. Bell; Sol. Jones, 42, Southampton-buildings, Holborn.—Pet. f. June 10.

GEORGE ARCHER SMITH, formerly of Peterborough and Warrington, Northamptonshire, then of Bacup, Lancashire, then of the Isle of Man, then of Manchester, and now of Chapel-street, Bedford-row, Middlesex, tile maker, July 10 at half-past 12, and Aug. 6 at 1, London: Off. Ass. Whitmore; Sols. Sole & Co., 68, Aldermanbury.—Pet. f. June 22.

RICHARD SMITH, Salehurst, near Hurst Green, and of Sedlescomb, near Battle, Sussex, butcher, July 3 at 11, and Aug. 7 at 12, London: Off. Ass. Cannan; Sols. Sole & Co., 68, Aldermanbury.—Pet. f. June 22.

WILLIAM HENRY FLUX, Heston, Middlesex, grocer, July 3 at half-past 12, and Aug. 7 at 1, London: Off. Ass. Whitmore; Sols. Richardson & Sadler, 28, Golden-square.—Pet. f. June 23.

FREDERICK HOLLICK, Flowers-terrace, Campbell-road, Bow, and of Mill-hill Works, Old Ford, Middlesex, chemical colour manufacturer, July 9 and Aug. 7 at 11, London: Off. Ass. Cannan; Sol. Rogers, 70, Fenchurch-street, City.—Pet. f. June 24.

WILLIAM DOWNES, Great Dover-street, Newington, Surrey, smith, July 9 and Aug. 7 at half-past 1, London: Off. Ass. Whitmore; Sol. Summers, 22, Harp-lane, City.—Pet. f. June 25.

GEORGE ARCHER, Great Clacton, near Colchester, Essex, corn merchant, July 8 at 11, and Aug. 6 at 12, London: Off. Ass. Graham; Sols. Marten & Co., 31, Commercial Sale-rooms, Mincing-lane.—Pet. f. June 16.

GEORGE HENRY MARTIN, Cow Cross-street, St. Sepulchre, and Cambridge-terrace, Dalston, Middlesex, tallow chandler, July 13 at half-past 12, and Aug. 10 at 12, London: Off. Ass. Pennell; Sols. Hine & Co., Charterhouse-square.—Pet. f. June 23.

DAVID ARTHUR SINGER, Oxford-street, tailor, July 13 at half-past 2, and Aug. 10 at 1, London: Off. Ass. Pennell; Sols. Bennett & Stark, 4, Furnival's-inn, Holborn.—Pet. f. June 22.

MORRIS MOSS, Somers-place, New-road, St. Pancras, coach broker, July 13 and Aug. 10 at 2, London: Off. Ass. Nicholson; Sol. Braham, 12, Furnival's-inn, Holborn.—Pet. f. June 24.

LEAH ISAACS, Piccadilly, cigar dealer, July 14 at 11, and Aug. 3 at half-past 11, London: Off. Ass. Pennell; Sols. J. & S. Solomon, 22, Finsbury-place.—Pet. f. June 24.

CHARLES THOMAS MOON, Regent-street, St. James's, Westminster, bookseller; also of Rupert-street, Haymarket, in partnership with Thomas Danson Pruday, as coffee-house keepers; also of Green-street, Grosvenor-square, in partnership with Marjory Moon, as child-bed linen warehousemen, July 8 at half-past 1, and Aug. 5 at 11, London: Off. Ass. Pennell; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. June 26.

JOHN BARTON, Manchester, silk manufacturer, (under the name or style of John Barton & Co.), July 10 and 31 at 12, Manchester: Off. Ass. Hernaman; Sols. Cobbett & Wheeler, Manchester.—Pet. f. June 24.

RICHARD ROWLINSON, Liverpool, shipowner, July 15 and Aug. 4 at 11, Liverpool: Off. Ass. Morgan; Sol. Atkinson, Liverpool.—Pet. f. June 25.

WILLIAM AUDLEY, Newcastle-under-Lyme, Staffordshire, auctioneer, July 9 and 30 at 10, Birmingham: Off. Ass. Whitmore; Sols. Knight & Udall, Newcastle-under-Lyme; Knight, Birmingham.—Pet. d. June 19.

GRANVILLE SCOTT WALTON, Wolverhampton, Staffordshire, factor, July 9 and 30 at 10, Birmingham: Off. Ass. Christie; Sols. E. & H. Wright, Birmingham.—Pet. d. June 22.

JAMES COOK, late of Queen-street, Cheapside, City, and now of Peckham, Surrey, boarding-house keeper, July 8 at 12, and Aug. 3 at 2, London: Off. Ass. Nicholson; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. June 24.

Meetings.

Thomas Henry Cogdon, Sunderland, Durham, plumber, July 7 at 12, Newcastle-upon-Tyne, last ex.—*John Killick*, Knightsbridge-terrace, Knightsbridge, silversmith, July 9 at 11, London, aud. ac.—*Joseph Smith*, Broad-street, Lambeth, dealer in iron, July 9 at 11, London, aud. ac.—*John Easton*, Clapham-road-place, Clapham-road, Surrey, builder, July 9 at 11, London, aud. ac.—*Gilbert Hodgson* and *Wm. Atcheson*, Sunderland, timber merchants, July 7 at 12, Newcastle-upon-Tyne, aud. ac.—*Thos. Ridley*, Hartlepool, Durham, draper, July 7 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Thos. Horner*, Hart-street, Bloomsbury, house decorator, July 22 at half-past 12, London, div.—*Wm. Adam*, Great Tower-street, City, merchant, July 17 at 12, London, div.—*Edward Firmin Ellis*, Hendon, Middlesex, and Royal Exchange-buildings, London, stockbroker, July 18 at 11, London, div.—*Walter Graham*, Blackburn, Lancashire, draper, July 7 at 12, Manchester, aud. ac.; July 21 at 12, div.—*Thos. Hindle*, *Richard Stuttard*, and *Henry Walmsley*, Accrington, Lancashire, power-loom cloth manufacturers, July 10 at 12, Manchester, aud. ac.; July 17 at 12, div.—*Robt. Rumney Charles* and *Wm. Fordyce*, Haughton, Northumberland, paper manufacturers, July 17 (and *not* June, as previously advertised) at 11, Newcastle-upon-Tyne, div.—*John Ladd*, Liverpool, contractor, July 17 at 11, Liverpool, div.—*Joseph Nokes*, Birmingham, glasscutter, July 27 at 10, Birmingham, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Figg, Farnham, Surrey, boot maker, July 17 at 2, London.—*Frederick Thomas Willis*, Whitecross-street, City, oil and colour man, July 17 at 1, London.—*George John Humphreys*, Crown-court, Old Broad-street, City, underwriter, July 18 at half-past 11, London.—*Thomas Ward*, Bow-churchyard, City, stock manufacturer, July 20 at half-past 11, London.—*Thomas Earle*, Parliament-street, Westminster, railway contractor, July 20 at half-past 1, London.—*Joseph Stoner*, Ormskirk and Southport, Lancashire, grocer, July 17 at 11, Liverpool.—*John Owen* and *William Henry Boon*, Birmingham, silversmiths, Aug. 20 at 10, Birmingham.—*William Leake*, Lane, Holme, Almondbury, Yorkshire, cattle dealer, Sept. 14 at 11, Leeds.—*William Tasker* and *John Andus*, Selby, Yorkshire, potato merchants, July 17 at 11, Leeds.—*Samuel Atack*, Leeds, Yorkshire, builder, July 17 at 11, Leeds.—*John Wick*, Sheffield, Yorkshire, electro plater, July 18 at 10, Sheffield.—*John Pepper* and *Edwin Addy Holmes*, Sheffield, Yorkshire, grocers, July 18 at 10, Sheffield.—*John Shaw* and *Joseph Shaw*, Sheffield, Yorkshire, tailors, July 18 at 10, Sheffield.—*Henry Walters* and *Benjamin Walters*, Alfreton, Derby, druggists, July 18 at 10, Sheffield.

To be granted, unless an Appeal be duly entered.

Hillyard Nichols, Bedford, corn merchant.—*John Beckwith Towse*, Lawrence Pountney-lane, City, shipowner.—*Nathaniel Levy*, Church-lane, Whitechapel, butcher.—*Donald M'Larty*, *John M'Kean*, and *Robert Lamont*, Liverpool, merchants.—*Thomas Dillon*, Halifax, Yorkshire, boot maker.

Partnership Dissolved.

Edward Fielding Palmer and *Charles Palmer*, Coleshill, Warwickshire, attornies and solicitors.

Scotch Sequestrations.

Alexander and *John Macpherson*, Edinburgh, lithographers.—*Robert Miller*, Dalyreck, near Crief, miller.—*George M'Donald*, Cupar-Fife, dyer.

Tuesday, *June* 30.

Bankrupts.

THOMAS STOYLES SANSBURY, Mark-lane, and Seething-lane, City, dealer in hemp, July 10 at 2, and Aug. 14 at 11, London: Off. Ass. Cannan; Sol. Lloyd & Rule, 26, Milk-street, Cheapside.—Pet. f. June 26.

[*For continuation of Gazette, see p.* 273].

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THE JURIST.

LONDON, JULY 4, 1857.

"The worst constituted of all judicatures," says Bentham, "except the House of Commons, is the House of Lords*." This, however, was written during the legal dictatorship of Lord Eldon, when what is happily now the exception was then the rule. The evil of a Lord Chancellor sitting upon appeals from his own decrees had not escaped that earnest-minded and eminently philosophical lawyer. Contrasting a mere rehearing with an appeal, he says, "With regard to a rehearing there is no fraud; all is what it seems to be. The fraud is where the appeal is from the Chancellor himself to a judicatory of which he is not only a member, but the only thinking one—a judicatory in which on ordinary occasions none attend, except as two ciphers, who vote as they see him vote, without pretence of thinking †."

The fact that the abuse complained of by Bentham only occasionally occurs now is no reason why it should not at once be abolished; for no person, even at the present day, knows how the House of Lords may be constituted, except numerically, "until the brass gates are opened;" it may for the time being perchance be strong, or perchance it may consist of a mere legal unit, in this instance conferring no value upon the attendant lay ciphers.

Since a former article upon this subject (ante, p. 233) another case has occurred forcibly illustrating the remarks we there made. The case we allude to is *Ridgeway* v. *Wharton*, which was heard before Sir J. Stuart, V. C., in July, 1853, who made a decree for specific performance in favour of the plaintiff, the two points at issue being, first, whether a person was the agent of the plaintiff; and, secondly, whether he, as agent, had entered into a valid agreement within the meaning of the Statute of Frauds. On the 11th January, 1854, the Lord Chancellor, sitting alone, reversed the decision of Sir J. Stuart, V. C., being of opinion, that although the case of agency had been made out, there was no valid agreement signed by the agent. (See 3 De G., Mac., & G. 677). The case came on first to be heard in the House of Lords in the year 1856, before two law lords only, viz. the Lord Chancellor (who had already in his own court reversed the decision of the Vice-Chancellor) and Lord Brougham, who directed the case to be re-argued. Accordingly, after the lapse of a year, the case was again heard, and judgment delivered by the House on the 26th June last. The Lord Chancellor changed his opinion, on one point holding that agency had not been established, and retained it as to the agreement not being within the statute. Lord St. Leonards, in a long and elaborate judgment, was in favour of the decision of the Vice-Chancellor upon both points. Lord Brougham and Lord Wensleydale concurred with the Lord Chancellor, and in consequence affirmed the decision of the Lord Chancellor. And "Lord Brougham, in concurring with the opinion of his noble and learned friend the Lord Chancellor, could not help expressing himself in terms of praise with respect to the fair, open, and manly manner in which that noble lord had stated his change of opinion, instead of keeping on in the wrong for the sake of preserving his so-called consistency. If the candid course adopted by his noble friend had always been followed, there would not have been so much bad law in the books as was unfortunately to be found there." (See the *Times*, 27th June, 1857). Now, look at this case: even if, when it came on first to be heard in the House of Lords, Lord Brougham had differed from the opinion of the Lord Chancellor, the decision of the latter in his own court would have remained unreversed, and his own opinion would have prevailed over those of two judges. The Lord Chancellor's change of opinion, with which the majority of the House concurred, did not affect the result, viz. the affirmance of his own judgment, and the reversal of the Vice-Chancellor's. It is true that in this case, even if the Lord Chancellor had not sat in the House of Lords upon the appeal from his own decree, there would still have been a majority in favour of it; nevertheless, the complimentary expressions of Lord Brougham towards the Lord Chancellor, "for the fair, open, and manly way in which that noble lord had stated his change of opinion," followed by the statement that much bad law is to be found in the books in consequence of others not having adopted the candid course adopted by his noble friend, ought not to be passed over without observation. This is precisely what we complain of, for as in former times, upon the authority of Lord Brougham, so, in all ordinary probability, in future times, should the law remain unaltered, we may have as occupants of the woolsack men whose candour and manliness may not equal that of the present Lord Chancellor, and the result will be, as in former times, much bad law, to the detriment of the public, and consequently much injustice, to the injury of individuals. That it requires no slight effort and no inconsiderable strength of mind for a judge of a court of appeal to acknowledge that he was in error in a court below in reversing the decision of another judge, Lord Brougham tacitly, by his compliment, (which would be otherwise displaced), admits; and if such a compliment be deserved (as doubtless it must be, otherwise it would not have been uttered by Lord Brougham) in a case where the change of opinion by the judge only added an additional argument in support of his own decree, how much more difficult the task, how much more deserving of commendation would be the judge who should by a change of opinion (we believe almost unprecedented) restore the decree which he had formerly reversed. No judge should be subjected to such a trial, before which, we have it on the high authority of Lord Brougham, some have already succumbed.

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* Bentham, by Bowring, vol. 4, p. 353.
† Id. 153.

If further evidence or reasoning were necessary to shew the truth of our remarks, let any man put the question to himself, whether, if he had a right to challenge his judges, he would ever wish to be heard on appeal by a judge who had already decided against him. We will venture to assert that there is no man who would not exercise such right, unless, indeed, he was aware that, from some mental idiosyncrasy, any particular judge was as likely to change as to retain the opinion he had already expressed.

To proceed, however, to the Lords Committee on this subject. By its report of the 20th May, 1856, as might à priori have been expected, they agreed as to the expediency of retaining the appellate jurisdiction of the House of Lords; and after stating the principal objections raised as to the present constitution and practice of the House as a court of ultimate appeal, they came to the following conclusions:—First, that although *instances* had been adduced where appeals in the House had been decided, *with advantage to the law and satisfaction to the public, by the Lord Chancellor or one law lord alone*, yet that the House, as a general rule, should be able to reckon on the attendance of not less than *three* law lords to assist in the hearing of all appeals; but in making this recommendation the committee by no means *wished to discourage the attendance of other members of the House.*

With reference to this conclusion, we cannot but infer, that in recommending that *three* law lords at least should sit upon appeals, the committee must have been aware that instances might have been adduced in which the decision of a single Lord Chancellor or law lord was not deserving of the very glowing compliments paid to some unnamed and exceptional cases. With regard to the attendance of other members—that is to say, of the lay peers—there certainly is no objection to their being present in a merely private capacity at the hearing of appeals, if they consider them either amusing or instructive; but in the name of common sense let us not perpetuate the absurdity of mere mock judges.

The committee then propose, first, the creation of two deputy speakers of the House of Lords, being persons who have held some high judicial office for not less than five years, and who are to receive a salary of 6000*l.* a year.

2. They propose that the House should be enabled to authorise its sittings for the hearing of appeals to be held notwithstanding a prorogation.

3. They suggest no fixed or invariable rule as to there being a Scotch judge as a member of the appellate court.

4. They leave the questions as to the unnecessary expenses of appeals to be dealt with by the Lord Chancellor and the Lords who assist him in hearing appeals.

5. They think that the mode of delivering judgments is a matter of discretion, but they recommend that those who hear appeals should have leave to sit at the table, and deliver their judgments sitting.

That in order to avoid the difficulty of conferring hereditary peerages on persons having judicial offices connected with the House of Lords, persons appointed to life peerages should enjoy all the privileges of Peers of Parliament, but that not more than four should have seats in the House at one time.

A bill founded on this report was thrown out by the Commons, and in doing so they had the general feeling of the country with them; for it is evident, notwithstanding the remedies suggested by the committee of the House of Lords for some notorious defects, the measure had not received that consideration which one of so much importance deserved; and, in fact, it was one calculated rather to preserve what has been termed the "privileges" of the House, than to provide the best possible supreme court for the use of the public. A much more comprehensive scheme is that of the present Attorney-General, (Sir Richard Bethell*), who proposed that the House of Lords should exercise its appellate jurisdiction through the medium of a judicial committee composed of Peers; that the jurisdiction and functions of the Judicial Committee of the Privy Council should be vested in the Judicial Committee of the Lords, so that there might be (in the House of

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* See Macqueen's Peers' Debate on the Appellate Jurisdiction, 96.

Lords) one single uniform appellate tribunal for the whole empire; and as he proposed that the Court should sit during five days in every week, except the vacations observed in Chancery, and that it should be constituted by the Lord Chancellor and four other members, it is to be presumed that this plan does not contemplate the Lord Chancellor sitting in any other court, so that he would no longer have attached to his office the disagreeable privilege or duty of sitting on appeals from his own decrees.

The consolidation of the Judicial Committee of the Privy Council with the House of Lords would, we believe, add to the dignity of the House, and give satisfaction to suitors from every part of the empire. It may be asked, why abolish the Judicial Committee of the Privy Council? It may be said, its decisions give general—nay, universal—satisfaction. This is undoubtedly true, inasmuch as that Court happens at present generally to reckon among its members judges of the highest eminence; but still it labours under many disadvantages; its sittings are irregular and precarious; nor is the public quite aware how the arrangement of what particular members are to hear any particular cause is *managed*, or who is or are the manager or managers* by whom the selection of members to hear each cause is made. This tribunal also is open to this objection, perhaps not now so grave as it might have been in past, or may become in future, times—the judges, who are not appointed during good behaviour, are entirely dependent on the pleasure of the Sovereign, by whom every one of them, without cause assigned, may at any time be struck from the list of Privy Councillors.

We may here mention, that one subject does not, in our opinion, seem to have been taken sufficiently into consideration, viz. if there be established an efficient and accessible tribunal of ultimate appeal, might not intermediate courts of appeal, both at Common Law and Chancery, be dispensed with? If this could be effected, a supreme court might be constituted with little expense, and we believe with great advantage to the country. The two Lords Justices of the Court of Appeal in Chancery, together with two of the best common-law judges, who might possibly then be spared from their courts, would, with the other law lords, form a constellation of lawyers whose decisions would give satisfaction to the country, and whose presence would throw a lustre upon the House.

Review.

Key to the Law Reports. [*Edward Cox*, 1857.]

This is a useful table of law and equity reports, giving in parallel columns the abbreviated form in which they are usually cited, the name of the reporter, the period (chronological and regnal) over which the reports extend, the court or judge whose decisions they contain, and the date of their publication. The arrangement which has been adopted is alphabetical, and the table is intended to be framed, and suspended in the chambers and offices of legal practitioners. One or two instances will illustrate the compiler's plan better than any description. We select the Exchequer and Jurist Reports; they stand thus:—

"Exch. Rep.:—Exchequer Reports, 1847—1857. Exchequer. 10 Vict.—20 Vict. 1849—1857.

"Jur.:—Jurist Reports, 1837—1854. All the courts. 7 Will. 4—17 & 18 Vict. 1837—1854.

"Jur., N. S.:—Jurist Reports, New Series, 1855—1857. All the courts. 18 & 19 Vict.—20 Vict. 1855—1857."

The abbreviations used in law books, and in the opinions of counsel, are sometimes difficult to interpret, but this difficulty will be obviated by the use of the "Key" before us.

COUNTY COURTS.

By an Order in Council, dated the 25th ultimo, it is ordered, that from and after the 1st August, 1857,

The parish of Sandhurst, now in the County Court of Berkshire, holden at Windsor, shall be in the district of the County Court of Berkshire, holden at Reading.

The parish of Chearsley, now in the district of the County Court of Buckinghamshire, holden at Aylesbury, shall be in the district of the County Court of Oxfordshire, holden at Thame.

The townships of Embleton and Wythop, now in the district of the County Court of Cumberland, holden at Keswick, shall be in the district of the County Court of Cumberland, holden at Cockermouth.

The extra-parochial place of Exmoor, and the parishes of Winsford, Withypoole, and Exford, now in the district of the County Court of Devonshire, holden at Tiverton, shall be in the district of the County Court of Devonshire, holden at Southmolton.

The parishes of Shudy Camps and Castle Camps, now in the district of the County Court of Essex, holden at Saffron Walden, shall be in the district of the County Court of Suffolk, holden at Haverhill.

The parish of Chilham, now in the district of the County Court of Kent, holden at Ashford, shall be in the district of the County Court of Kent, holden at Canterbury.

The parishes of Dinas, Newport, and Llanychllwydog, now in the district of the County Court of Pembrokeshire, holden at Haverfordwest, shall be in the district of the County Court of Cardiganshire, holden at Cardigan.

The townships of Cheddleton and Basford, now in the district of the County Court of Staffordshire, holden at Cheadle, shall be in the district of the County Court of Staffordshire, holden at Leek.

The parish of Cannock, now in the district of the County Court of Staffordshire, holden at Wolverhampton, shall be in the district of the County Court of Staffordshire, holden at Walsall.

The parish of Bedingfield, now in the district of the County Court of Suffolk, holden at Framlingham, and the parishes of Rickenhall Inferior and Hinderclay, now in the district of the County Court of Suffolk, holden at Bury St. Edmunds, shall be in the district of the County Court of Suffolk, holden at Eye.

The parishes of Debenham, Winston, and Ashfield-with-Thorpe, now in the district of the County Court of Suffolk, holden at Ipswich, shall be in the district of the County Court of Suffolk, holden at Framlingham.

The parishes of Beyton and Hessett, now in the district of the County Court of Suffolk, holden at Stowmarket, and the parishes of Lawshall and Cockfield, now in the district of the County Court of Suffolk, holden at Sudbury, shall be in the district of the County Court of Suffolk, holden at Bury St. Edmunds.

The parishes of Witnesham, Tuddenham, Rushmere, and Nacton, now in the district of the County Court of Suffolk, holden at Woodbridge, shall be in the district of the County Court of Suffolk, holden at Ipswich.

The parish of Brettenham, now in the district of the

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* Id. 53.

County Court of Suffolk, holden at Sudbury, shall be in the district of the County Court of Suffolk, holden at Stowmarket.

The parish of Henstead, now in the district of the County Court of Suffolk, holden at Halesworth, shall be in the district of the County Court of Suffolk, holden at Beccles.

The parish of Calstock, now in the district of the County Court of Cornwall, holden at Liskeard, shall be in the district of the County Court of Devonshire, holden at Tavistock.

IMPORTANT EXPERIMENTS FOR DETECTION OF STRYCHNINE.

The great importance of the chemical evidence in recent cases of poisoning, and the fact of an eminent chemist having maintained the theory that there exists a deadly poison within the reach of the "dangerous classes," which after a certain time cannot be detected, have naturally led medical men to take a deep interest in the subject, and to endeavour to uphold the value of their science in the administration of justice.

Two of these gentlemen, Mr. Rodgers, many years lecturer on chemistry at the St. George's School of Medicine, and Mr. Prout Girdwood, assistant surgeon in the Grenadier Guards, a gentleman bearing a name already familiar in medical jurisprudence, undertook a series of experiments to test the truth of Professor Taylor's theory, and the conclusiveness of his analysis. The conclusions to which these gentlemen have come are the following:—

1. That the opinion that strychnine can only be detected when the poison is in excess is untenable, and not supported by trustworthy analysis.

2. That the opinion that strychnine is decomposed in the process of the destruction of life is founded on the results of analysis made by imperfect processes, and hence is unsound and unphilosophical.

3. That strychnine can always be detected, when it has occasioned death, in the blood, organs, and tissues of the body, quite independently of the contents of the stomach.

4. That it is found unchanged in the urine.

5. That the delicacy of the reactions of strychnine, and its extraordinary stable qualities, render its detection more certain than any other poison.

It would be impossible to give in a short space a detail of the experiments by which Messrs. Rodgers and Girdwood arrived at these conclusions, but the following is a *precis* of a few of them, from the pen of a professional gentleman present when they were made:—

"A rabbit was poisoned by five successive doses of strychnine, each containing one-thirtieth of a grain. Death followed in about three hours after the first dose, and within half an hour of the administration of the last. The contents of the stomach yielded strychnine in abundance. Half a pound of the flesh did the same. It was discovered in the bones and in the urine. Only one-sixth of a grain had been given to the creature. In three hours' time it had passed into every part of the body, and had there become so fixed as to be recoverable.

"The blood and contents of the stomach of a dog, poisoned by two grains of strychnine, were, after putrefaction, subjected to analysis, both yielding strychnine.

"The muscles, viscera, and bones of a dog, poisoned with a grain of strychnine, were separately subjected to analysis thirteen months after interment; *strychnine was discovered in every instance.*

"The organs and contents of the stomach of a rabbit, poisoned by half a grain of strychnine, yielded that alkaloid in each analysis.

"The viscera and contents of the stomach of a rabbit, poisoned by half a grain of strychnine and five grains of tartar emetic, yielded antimony and strychnine also in each analysis. The body of this rabbit was allowed to decompose in contact with air for nine months. When dry, the bones separated, and all the other tissues almost pulverulent, subjected to the same mode of analysis, yielded strychnine with equal facility.

"The quantity of strychnine reproduced in some of the cases, you will say, must be very small. This is quite true. Nevertheless I can vouch for the delicacy, certainty, and clearness of the chemical tests. I have seen the same unquestionable results both with large and small quantities; and it must be remembered that these terms are only relative. The two-thousandth part of a grain, to ordinary observers, would be not only a small quantity, but an inappreciable quantity; and until Messrs. Rodgers and Girdwood adopted their present process of analysis it was beyond the reach even of the chemist, when mixed with animal matter. Now the case is altered. I have seen a drop of a solution containing less than the two-thousandth part of a grain evaporated on a small porcelain dish. The spot left has been freed from all remaining trace of animal matter by strong sulphuric acid. A line drawn across it with a crystal of bichromate of potash has shewn, at every point, and beyond dispute, the characteristic colour depending on the presence of strychnine. Conceive, if possible, how small a quantity of the poison must have been present in each portion of that coloured line. Still it was as clear and plain to the sense of sight as the difference between sixpence and half-a-sovereign. There was some uncertainty once, when search was made for strychnine in animal bodies, owing to the difficulty of disengaging the drug from their tissues. Now there is none, because that difficulty is removed. The test for the poison, when pure, was always regarded as indisputable."

BILLS IN PROGRESS.

GRAND JURIES (METROPOLITAN POLICE DISTRICT) BILL.

Sect. 1. The attendance of a grand jury shall not be required at the Central Criminal Court, or at any of the general or quarter sessions within the metropolitan police district.

2. No charge is to be tried at the Central Criminal Court, &c., unless previously investigated before a justice; and the officer of the court is to prepare an information describing the offence as fully as in an indictment; and every information so filed shall be in lieu of an indictment found by a grand jury.

3. The Attorney-General may direct an information to be filed whether the charge has been previously investigated or not.

4 Nothing hereinbefore contained shall apply to any charge of treason or misprision of treason, but in such cases a special commission shall issue, and all proceedings thereon shall be taken as if this act had not been passed.

5. This act is not to apply to the procedure for the trial of any person against whom a verdict has been found of murder or manslaughter upon a coroner's inquisition.

LEASES AND SALES OF SETTLED ESTATES ACT AMENDMENT BILL.

Sect. 1. The 20th and 21st sections of the 19 & 20 Vict. c. 120, are hereby repealed.

2. The 26th section of the said act shall stand as follows:—The court shall be at liberty to exercise any of the powers conferred on it by this act, whether the court shall have already exercised any of the powers conferred by this act in respect of the same property or not; but no such powers shall be exercised if an express declaration that they shall not be exercised shall be contained in the settlement; and the circumstance of the settlement containing powers to effect similar purposes shall not preclude the court from exercising any of the powers conferred by this act, if it shall think that the powers contained in the settlement ought to be extended.

THOMAS DANSON PRUDAY, Rupert-street, Haymarket, tavern keeper, (carrying on business with Charles Thomas Moon), July 14 at half-past 1, and Aug. 5 at 11, London: Off. Ass. Pennell; Sols. Lawrance & Co., 14, Old Jewry-chambers, City.—Pet. f. June 26.

ANTHONY MARSDEN and **WILLIAM MARSDEN**, High-street, Islington, shawl and mantle warehousemen, (trading under the style or firm of Marsden Brothers), July 15 at 12, and Aug. 10 at half-past 1, London: Off. Ass. Nicholson; Sols. Reed & Co., 59, Friday-street, Cheapside; Sole & Co., Aldermanbury.—Pet. f. June 23.

HUGH INNES CAMERON, Hyde-park-gate, Kensington-gore, sheep salesman, July 16 at half-past 1, and Aug. 13 at 11, London: Off. Ass. Cannan; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, Bucklersbury.—Pet. f. June 23.

WILLIAM HENRY TIBBIT, Old-street, St. Luke's, oil and colour man, July 10 and Aug. 14 at half-past 1, London: Off. Ass. Whitmore; Sol. Selby, 15, Coleman-street, City.—Pet. f. June 24.

RICHARD GOMER, Dudley, Worcestershire, dealer in fancy goods, July 11 and 31 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Smith, Tipton; Knight, Birmingham.—Pet. d. June 27.

JOSEPH CROFTS, Walsall, Staffordshire, builder, July 11 and 31 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Duignan & Hemmant, Walsall.—Pet. d. June 25.

RICHARD BATE, Shrewsbury, Shropshire, wine merchant, July 13 and Aug. 3 at half-past 10, Birmingham: Off. Ass. Christie; Sols. Pidcock, Worcester; Watkins, Worcester; E. & H. Wright, Birmingham.—Pet. d. June 26.

SAMUEL MYCROFT, Worksop, Nottinghamshire, butcher, July 11 and Aug. 8 at 10, Sheffield: Off. Ass. Brewin; Sols. Broadhurst & Hodding, Worksop.—Pet. d. and f. June 27.

JAMES BRAMWELL, Glossop, Derbyshire, grocer, July 14 and Aug. 4 at 12, Manchester: Off. Ass. Pott; Sols. Brooks & Marshall, Ashton-under-Lyne.—Pet. f. June 23.

HENRY HOLLAND, Leyland, Lancashire, builder, July 16 and Aug. 6 at 12, Manchester: Off. Ass. Hernaman; Sols. Stanton & Jones, Chorley; Taylor & Co., Manchester.—Pet. f. June 25.

MEETINGS.

John Fox, Ashbourne, Derbyshire, scrivener, July 28 at half-past 10, Nottingham, ch. ass.—*George Henry Sellers*, Westbourne-park-road, Paddington, merchant, July 13 at 1, London, last ex.—*Robert Swan Young*, West Hartlepool, Durham, tea dealer, July 10 at 11, Newcastle-upon-Tyne, last ex.—*John Peto* and *John Bryan*, Dacre-street, Westminster, Middlesex; Liverpool; and Willow-walk, Surrey, army contractors, July 10 at 12, London, aud. ac. sep. ests.—*F. M'Kinnell* and *Geo. Smith*, Liverpool, and Huyton Quarry, Lancashire, manufacturers of waterproof fabrics, July 9 at 11, Liverpool, aud. ac.—*John Ladd*, Liverpool, contractor, July 10 at 11, Liverpool, aud. ac.—*Edmund Lloyd Owen*, Wolverhampton, Staffordshire, mineral merchant, July 30 at half-past 11, Birmingham, aud. ac.—*Wm. Comeley* the elder, Tipton, Staffordshire, brickmaker, July 29 at 10, Birmingham, aud. ac.—*Charles Grove*, Birmingham, licensed victualler, July 29 at 10, Birmingham, aud. ac.—*Thomas Foxley*, Birmingham, grocer, July 27 at 10, Birmingham, aud. ac.—*John Hunter*, Fazeley, Staffordshire, lace manufacturer, July 29 at 10, Birmingham, aud. ac.—*Wm. Henry Wheeler*, Mickleton, Gloucestershire, brewer, July 10 at half-past 11, Birmingham, aud. ac.—*Wm. Overton*, Leamington Priors, Warwickshire, builder, July 29 at 10, Birmingham, aud. ac.—*Thomas Nash*, Stourbridge, Worcestershire, builder, July 10 at half-past 11, Birmingham, aud. ac.—*Thomas H. Brook*, Wolverhampton, Staffordshire, draper, July 10 at half-past 11, Birmingham, aud. ac.—*Henry Clarke*, Nuneaton, Warwickshire, ribbon manufacturer, July 10 at half-past 11, Birmingham, aud. ac.—*Wm. H. Heginbottom*, Manchester, hosier, July 16 at 12, Manchester, aud. ac.; July 23 at 12, div.—*John Lowe*, Manchester, merchant, July 22 at 12, Manchester, div.—*Joseph Seville*, Salford, cotton cloth manufacturer, July 22 at 12, Manchester, div.—*John Holden*, Liverpool, money scrivener, July 21 at 11, Liverpool, div.—*Robert Taylor*, Sunderland, draper, July 24 at half-past 11, Newcastle-upon-Tyne, div.—*George Davy Richardson*, Carlisle, ironfounder, July 23 at 1, Newcastle-upon-Tyne, div.—*Wm. J. Pepper*, Coventry, Warwickshire, printer, July 22 at half-past 11, Birmingham, div.—*James T. Woodhouse*, Leominster, Herefordshire, scrivener, July 22 at half-past 11, Birmingham, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Leopold Straus, Fenchurch-street, London, and Rue du Bouloi, Paris, corn merchant, July 21 at half-past 2, London.—*George Ward*, Liverpool, licensed victualler, July 23 at 11, Liverpool.—*Aaron Collinson*, Burnley, Lancashire, cotton manufacturer, July 23 at 12, Manchester.—*J. Entwistle*, Bury, Lancashire, tailor, July 22 at 12, Manchester.—*Sarah Patrick*, Worcester, butcher, July 30 at half-past 10, Birmingham.—*Thomas Carrier*, Wolverhampton, Staffordshire, general dealer, July 30 at 10, Birmingham.—*W. S. Withers*, Mansfield, Nottinghamshire, miller, July 28 at half-past 10, Nottingham.

To be granted, unless an appeal be duly entered.

Wm. S. Hickman, Duke-street, St. James's, picture dealer.—*John Durrant*, Wormwood-street, City, tailor.—*William Phillips*, Norwich, currier.—*W. Adams*, Huntingdon, miller.—*Louis Birnstingl*, Broad-street-buildings, City, merchant.—*Wm. Trevethick*, Lincoln, timber merchant.

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Notice.—The Lord Chancellor has directed that the Third, Fourth, and Fifth Seals in the Sittings after Trinity Term, 1857, which have been appointed for the 6th, 13th, and 20th days of July next, be respectively postponed to the following days, (that is to say)—

Third Seal .... Tuesday, July 7.
Fourth Seal......... Tuesday, July 14.
Fifth Seal .... Tuesday, July 21.

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Meetings.

John Peter M. Greig, Bartlett's-buildings, Holborn, and Wheatsheaf-yard, Farringdon-street, cabinet maker, July 15 at 12, London, pr. d.—*Thos. Laidler*, Jarrow, Durham, coke burner, July 15 at 11, Newcastle-upon-Tyne, pr. d.—*Wm. Ridley Carr* and *Henry F. Scott*, Wallsend, Northumberland, iron manufacturers, July 15 at 11, Newcastle-upon-Tyne, pr. d.—*Wm. R. Carr* and *Thomas Laidler*, Denton, Northumberland, coal owners, July 15 at 11, Newcastle-upon-Tyne, pr. d.—*George Milnes Hirst*, *George Hirst*, and *Wm. F. Wilman*, Batley, Yorkshire, manufacturers, July 27 at 11, Leeds, pr. d.—*Edward Williams*, Chester, and Saltney, Flintshire, plumber, July 16 at 12, Liverpool, last ex.—*W. Adam*, Great Tower-street, City, merchant, and Lloyd's, underwriter, July 16 at 11, London, aud. ac.—*Wm. J. Pepper*, Coventry, printer, July 15 at half-past 11, Birmingham, aud. ac.—*Joseph Curtis Wharton*, Stourbridge, Worcestershire, licensed victualler, July 22 at half-past 11, Birmingham, aud. ac.—*Alfred Hinton*, Birmingham, druggist, July 15 at half-past 11, Birmingham, aud. ac.—*Frederick George Beale*, Gloucester, bill broker, July 23 at 11, Bristol, aud. ac.—*Philip Porter*, Liverpool, cotton broker, July 17 at 11, Liverpool, aud. ac.—*George Pacey*, Birmingham, merchant, July 15 at 11, Liverpool, aud. ac.—*Wm. Doeg* and *John Skelton*, Newcastle-upon-Tyne, timber merchants, July 14 at 12, Newcastle-upon-Tyne, aud. ac. joint est., and aud. ac. sep. est. of *John Skelton*.—*Robert Rumney Charles* and *Wm. Fordyce*, Haughton, Northumberland, paper manufacturers, July 16 at 11, Newcastle-upon-Tyne, aud. ac.—*George Cavens*, Carlisle, jeweller, July 14 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Joseph Redfearn*, Thornhill, Yorkshire, manufacturer, July 28 at 11, Leeds, aud. ac. and div.—*Joseph Bowron Elgey*, Horton, Bradford, Yorkshire, commission agent, July 16 at 11, Leeds, aud. ac.—*James Mitchell*, Lane-ends, Keighley, Yorkshire, worsted spinner, July 16 at 11, Leeds, aud. ac.—*Wm. Wilkinson*, Sedbergh, Yorkshire, corn merchant, July 6 at 11, Leeds, aud. ac.—*William Shaw*, Leeds, millwright, July 16 at 11, Leeds, aud. ac.—*Wm. Thos. Carr*, Barnsley and Oughtibridge, Yorkshire, ironmonger, July 16 at 11, Leeds, aud. ac.—*Wm. Taylor*, York, grocer, July 16 at 11, Leeds, aud. ac.—*John Fell* and *John Learoyd*, Huddersfield, Yorkshire, woollen manufacturers, July 16 at 11, Leeds, aud. ac.—*Elizabeth Hill*, Little Moorfields, City, coach builder, July 24 at 12, London, div.—*Wm. Benning*, Fleet-street, City, law bookseller, July 24 at half-past 1, London, div.—*Henry Hall* and *Cheslyn Hall*, New Boswell-court, Lincoln's-inn, and Neasdon, Middlesex, cattle dealers, July 25 at half-past 11, London, div.—*John Emmerson*, High-street, Poplar, Middlesex, and Plaistow, Essex, licensed victualler, July 25 at 11, London, div.—*John Ross*, Brunswick-terrace, Commercial-road East, shipowner, July 27 at half-past 12, London, div.—*Charles Warwick*, Manchester, commission agent, July 17 at 11, Manchester, aud. ac.; July 24 at 11, div.—*Joshua Binns*, Dukinfield, Cheshire, cotton manufacturer, July 17 at 12, Manchester, aud. ac.; July 24 at 12, div.—*Thomas Stacey*, Eckington, Derbyshire, coal master, July 27 at 12, Manchester, div.—*Frederick M'Kinnell* and *Geo. Smith*, Liverpool and Huyton Quarry, Lancashire, manufacturers of waterproof fabrics, July 24 at 11, Liverpool, div.—*Wm. Carter* the younger, Leamington Priors, Warwickshire, ironmonger, July 29 at half-past 10, Birmingham, div.—*Joseph Kell*, Brierley-hill, Staffordshire, grocer, July 27 at half-past 10, Birmingham, div.—*William Wilks Blackett*, *Richard Thackray*, and *Robert Tennant*, Manchester, linen merchants, July 24 at 11, Leeds, div.—*George Binns* and *Godfrey Binns*, Hartshead Moor, Cleckheaton, Birstal, Yorkshire, cloth manufacturers, July 24 at 11 Leeds, div. joint est., and div. sep. est. of *George Binns*.—*R. Welsh*, Huddersfield, Yorkshire, woollen merchant, July 24 at 11, Leeds, div.—*Wm. Williford*, Scarborough, Yorkshire, wine merchant, July 24 at 11, Leeds, div.—*Henry Williamson*, Leeds, cloth merchant, July 24 at 11, Leeds, div.—*George Thompson*, Karesborough, Yorkshire, leather seller, July 24 at 11, Leeds, div.—*Wm. Bulmer*, Bedale, Yorkshire, grocer, July 24 at 11, Leeds, div.—*J. Alfred Hatfield*, Bradford, Yorkshire, draper, July 24 at 11, Leeds, div.—*Henry Harrison*, Sheffield, Yorkshire, tailor, July 25 at 10, Sheffield, div.—*Edw. Teall* and *Reuben Teall*, Leeds, boatbuilders, July 24 at 11, Leeds, div.—*John Vallance*, Sheffield, wine merchant, July 25 at 10, Sheffield, div.—*Aaron Marks* and *Nahum Salamon*, Sheffield, merchants, July 25 at 10, Sheffield, div. joint est., and div. sep. est. of *Aaron Marks*.—*Francis Scaife*, Sheffield, cutlery manufacturer, July 25 at 10, Sheffield, div.

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[*For continuation of Gazette, see p.* 281].

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THE JURIST.

LONDON, JULY 11, 1857.

SEVERAL important decisions have been recently pronounced upon the Statutes of Limitations, and it may not be unacceptable to our readers to be supplied with a summary of them, and a few comments upon their leading points. Foremost among them is the case of *Roddam* v. *Morley*, (3 Jur., N. S., part 1, p. 449; 26 L. J., Ch., 438). In that case a bond had been given in 1826 by the testator, who afterwards devised his estates to his son for life, remainder to the first and other sons in tail. The obligor died in 1827, and interest was paid on the bond by the tenant for life until 1847. He died in 1854, and the question was, whether his son, the tenant in tail, was precluded from setting up the Statute of Limitations against the bond by reason of such payment of interest by the tenant for life. Sir W. P. Wood, V. C., held that he was not*; but on appeal this decision was reversed by the Lord Chancellor, who was assisted on the occasion by Williams and Crowder, JJ. They agreed with the Vice-Chancellor that the bond debt was not "charged upon or payable out of land" within the meaning of the 40th section of the 3 & 4 Will. 4, c. 27. The main question, however, was, whether the payment of interest by the tenant for life was an acknowledgment made "by the party liable by virtue of the bond" within the meaning of the 5th section of the 3 & 4 Will. 4, c. 42. By the 3rd section of that statute, actions on a bond or other specialty must be brought within twenty years of the cause of action; but by sect. 5, an acknowledgment, either by writing signed *by the party liable by virtue of the specialty* or his agent, or by part payment on account of principal or interest, gives a further period of twenty years after such acknowledgment. The Court were of opinion that the devisee was capable of making the acknowledgment, as being "liable" by virtue of the bond.

The next question was as to the effect of such acknowledgment, or, in other words, whether it set the action free generally, or only as to the particular party who had made the acknowledgment. The Court gave the wider effect to the acknowledgment, and therefore held that the remainderman could not avail himself of a defence under the Statute of Limitations after the part payment by the tenant for life. In opposition to this view, the enactment, giving a period of twenty years after the return from beyond seas of the party making the acknowledgment, he having been abroad at the time of making it, was relied upon, and it was said to be unreasonable that one of the parties liable being abroad, and having made an acknowledgment there, the limitation of the action should be suspended, as against all the other parties liable, though resident in England, till twenty years after he had returned. The learned judges, however, adverted to the construction put upon the analogous provision in 4 Ann. c. 16, s. 19, rendering the suspension of limitation applicable whenever, by reason of the absence beyond seas of any of the intended defendants, the plaintiff cannot have his complete remedy against all those whom he is entitled to sue. (*Fannin* v. *Anderson*, 7 Q. B. 811; *Towns* v. *Mead*, 16 C. B. 123). We may remind our readers that this cause of suspension is now wholly abolished by the Mercantile-law Amendment Act, 19 & 20 Vict. c. 97, s. 11, whereby no person shall be entitled to any time for the commencement of an action or suit against one or more joint debtors who shall not be beyond the seas at the time when the cause of action accrued, by reason only that some other one or more of such joint debtors were, at the time of the accrual of the cause of action, beyond the seas; and the person entitled to sue shall not be barred from suing the joint debtor who was beyond the seas when the cause of action accrued, after his return, by reason only that judgment has been already recovered against others of the joint debtors who were not beyond seas at such time*. By sect. 11 no further time is allowed for suing than the period fixed by the Statutes of Limitations, by reason only of the person entitled to sue, or one or more of such persons, having been beyond seas or in prison at the time of the accrual of the cause of action.

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* See the case in the court below, (2 Jur., N. S., part 1, p. 805). See also *Morley* v. *Morley*, (1 Jur., N. S., part 1, p. 1097).

The next case on this subject to which we call attention is one turning upon the 14th section of this statute, (19 & 20 Vict. c. 97). By that section it is enacted, that where there shall be two or more co-contractors, whether bound jointly, or jointly and severally, or executors or administrators of any such contractors, no one or more of them shall lose the benefit of the Statutes of Limitations, (21 Jac. 1, c. 16, and 3 & 4 Will. 4, c. 42), by reason only of payment of principal and interest or other money by any other of such co-contractors, executors, or administrators. This section was held by Sir R. T. Kindersley, V. C., in *Thompson* v. *Waithman*, (2 Jur., N. S., part 1, p. 1080), to have a retrospective effect. There two partners had made a joint promissory note, and after the death of one the surviving partner (who was also executor of the deceased) paid interest on the note, which took the case out of the Statute of Limitations as against him, although otherwise the statute would have been a bar to any action or suit on the note. Upon a claim by the holder against the estate of the deceased partner, it was held that the payments must be taken to have been made by him in his capacity of partner, and although this statute had passed after the cause of action accrued, it barred the claim. It must be admitted, however, that the Vice-Chancellor put his judgment as to the retrospective effect of this enactment in the statute on very special grounds. "It is said," observed the learned judge, "that the language of this section is future, and *this is true with respect to the operation of the act*, but there is nothing future with reference to the payment of principal or interest by the co-contractor. . . . . Then it is said that it cannot be assumed that the Legislature would intend to do so unjust an act as to take away the benefits to which the parties were entitled by an ex post facto law. Now, unquestionably, before the act there have been decisions not in accordance with one another, and there was a great question as to which way they ought to be; and certainly some of the later decisions have established the proposition, that payment by a co-contractor would deprive the contractor of the benefit of the statute of James. But there were other decisions, and it does not appear to me that any such argument as to injustice can prevail." The judgment in this case, therefore, seems to rest upon the facts that the object of the section was to prevent a party from "*losing a benefit*" to which he had once been entitled, and that the law upon the subject was somewhat doubtful at the time of the passing of the statute. But even on these grounds we venture to suggest, with all respect for the learned judge whose decision we are reviewing, that a retro-active operation ought not to have been given to this section, as it tended to affect a vested right of action. The maxim "Nova constitutio futuris formam imponere debet, non preterritis," should, we submit, be applied in such cases; and very recently the Court of Exchequer have held that the 1st section of this very statute is not retrospective*.

SYNOPSIS OF CROWN CASES.

OUR last synopsis of the decisions upon Crown Cases Reserved was given 2 Jur., N. S, part 2, p. 291. We now proceed to place before our readers the cases which have been decided and reported in our pages subsequently.

Abortion.]—The prisoner was asked by a woman to get her something to procure miscarriage. She did so, and gave it to her, with directions as to the quantity she was to take. The woman, in the absence of the prisoner, took the dose, and a miscarriage ensued. This was held to be a causing to be taken within stat. 1 Vict. c. 85, s. 6. (*Reg.* v. *Wilson*, 2 Jur., N. S., part 1, p. 1146). A similar conclusion was come to in *Reg.* v. *Farrow*, (3 Jur., N. S., part 1, p. 67), upon a similar state of facts.

Acting under Pretence of Process.]—By the County Court Act, 9 & 10 Vict. c. 95, s. 57, it is enacted that every person "who shall act or profess to act under any false colour or pretence of the process of the said court shall be guilty of felony:"—Held, (Bramwell, B., dissentiente), that to constitute this offence it is not necessary that there should be any actual process in existence, or anything purporting to be such. (*Reg.* v. *Evans*, 3 Jur., N. S., part 1, p. 594).

Arson.]—Upon the trial of an indictment under the 7 Will. 4 & 1 Vict. c. 89, s. 10, for setting fire to a stack of grain, it appeared that the stack in question was of the flax plant, with the seed or grain in it. The jury found that the flax seed is a grain, and convicted the prisoner. The Court affirmed the conviction. (*Reg.* v. *Spencer*, 2 Jur., N. S., part 1, p. 1212).

Attempts to commit Crimes.]—The prisoner was indicted for breaking and entering a dwelling-house, and stealing certain specified goods. At the time of the breaking and entering, the goods named in the indictment were not in the house, but there were other goods there belonging to the prosecutor:—Held, that there was no attempt to commit the felony charged in the indictment within the meaning of the 14 & 15 Vict. c. 100, s. 9. (*Reg.* v. *M'Pherson*, 3 Jur., N. S., part 1, p. 523).

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* The latter part of this clause was inserted on account of the decision in *King* v. *Hoare*, (13 M. & W. 494), that a judgment (without satisfaction) recovered against one of two *joint* debtors is a bar to an action against the other.

* *Williams* v. *Smith*, (Trin. T., 1857). There goods had been bound by a writ of fi. fa. delivered to the sheriff before the passing of the act, and had been purchased without notice, but not in market overt, after the act had passed; the Court held that they were bound by the writ. See, upon the point of statutes not being retrospective, *Moon* v. *Durden*, (2 Exch. 22); *Hitchcock* v. *Way*, (6 Ad. & El. 943); *Edwards* v. *Sheren*, (11 M. & W. 595); *Marsh* v. *Higgins*, (19 L. J., C. P., 297); *Vansittart* v. *Taylor*, (4 El. & Bl. 910); *Pinhorn* v. *Souster*, (8 Exch. 143); and *Foster* v. *Pritchard*, (26 L. J., Ex., 215).

Bankruptcy.]—By the 16th section of the 17 & 18 Vict. c. 119, the declaration of insolvency must be filed "in the court within the district whereof the trader filing the same shall have resided or carried on business for six calendar months next immediately preceding the time of the filing thereof." An indictment against a bankrupt for mutilating his books alleged, that before and at the time &c., to wit, on the 23rd November, 1855, B. S. was a trader, &c., and that he for more than six months next immediately preceding the time of filing the petition for adjudication, &c. did reside and carry on business, &c. within the jurisdiction, &c., and that whilst he so resided &c., to wit, on the 23rd November, 1855, he filed with the registrar, &c. a declaration that he was unable to meet his engagements, and that whilst he so resided &c., to wit, on the 23rd November, 1855, he did present his petition for adjudication:—Held, after verdict, that the averments in the indictment were sufficient to shew that the requirements of the above statute had been complied with. (*Reg.* v. *Scott*, 2 Jur., N. S., part 1, p. 1096).

Bigamy.]—Upon the trial of an indictment for bigamy, it appeared that the prisoner's husband had been absent from her for seven years next preceding the second marriage, and there was no evidence that she knew him to be living at the time of the second marriage. The jury found that they had no evidence of the prisoner's knowledge of her husband being alive, but that they were of opinion she had the means of acquiring that knowledge if she had chosen to make use of them. The Court held, that upon this finding of the jury a conviction could not be supported. (*Reg.* v. *Briggs*, 2 Jur., N. S., part 1, p. 1195).

Where the first alleged marriage has taken place in a dissenting chapel, it is sufficient, in order to establish the fact of the marriage, to prove, by a witness who was present, the actual solemnisation of the marriage, and the presence of the registrar of the district at the marriage. (*Reg.* v. *Mainwaring*, 2 Jur., N. S., part 1, p. 1236).

To prove that a chapel was a duly registered building under the 6 & 7 Will. 4, c. 85, a certificate under the hand of the superintendent registrar, which certified the fact that the chapel had been registered on a day named, was produced. A witness stated that he had examined the certificate with the register-book, and that it was correctly extracted. Pollock, C. B., and Willes, J., held that the document was admissible as an examined copy or extract within the 14 & 15 Vict. c. 99, s. 14. (Ib.)

Cheating at Cards.]—In an indictment framed under the 8 & 9 Vict. c. 109, s. 17, it is not necessary to aver to whom the money won by playing at cards belonged. (*Reg.* v. *Moss*, 2 Jur., N. S., part 1, p. 1196).

Embezzlement.]—A conviction for embezzlement was supported upon the following state of facts:—It was the prisoner's duty, when he received monies on account of his masters, to enter the amounts to the credit of the customers in a day-book, to make extracts from this book, and then to enter the whole amount on the credit side of a bankers' deposit account, and to pay in the amount to the credit of his masters with their bankers; he afterwards was to post the amounts in a ledger, which contained the accounts of the different customers. The prisoner received an amount, and appropriated it to his own use. The only entry he had made of this amount was in the ledger, where he had placed it to the credit of the customer. (*Reg.* v. *Lister*, 2 Jur., N. S., part 1, p. 1124).

The prisoner was employed at a railway station belonging to four different companies. The servants at this station were appointed and paid, and might be dismissed, by a committee of directors of the several companies. It was the prisoner's duty to pay over money received for parcels arriving by the trains of the different companies to the chief clerk, who then paid over such monies to the cashier of the committee, who kept a separate account for each company, and paid the money over directly to the company to whom it belonged. The prisoner was charged in different counts of an indictment for embezzlement, as being the servant of the particular company whose money he had embezzled, of the four companies, of the committee, and of the station-master. The Court held that at all events he was properly charged as the servant of the four companies. (*Reg.* v. *Bayley*, 2 Jur., N. S., part 1, p. 1171).

Evidence.]—In *Reg.* v. *Scott* (2 Jur., N. S., part 1, p. 1096) we have an important decision, materially affecting the position of bankrupts, so far as regards the evidence that may be given against them upon criminal charges subsequent to their examination in bankruptcy. By the 117th section of the Bankrupt-law Consolidation Act, it is compulsory upon a bankrupt, when examined by the Court of Bankruptcy, to answer all questions touching "matters relating to his trade, dealings, or estate," &c., although his answers may criminate himself. In the above case, the majority of the Court (Lord Campbell, C. J., Alderson, B., Willes, J., and Bramwell, B.) held that such answers might afterwards be given in evidence against a bankrupt upon a criminal charge. Coleridge, J., differed from his brethren; and when the important principle involved in the case is considered, it is perhaps to be regretted that it was not re-argued before and decided by all the judges. We have before made some observations upon this case. (See 2 Jur., N. S., part 2, p. 333).

In order to render a declaration by a deceased person admissible in evidence, he must have been, at the time he made it, under apprehension of death; such apprehension, however, need not be of death within a particular time; it must be made under the impression that he is about to die after comparatively a short lapse of time, and under the clear conviction that he will not recover. (*Reg.* v. *Reany*, 3 Jur., N. S., part 1, p. 191).

The evidence of a man who has seen another sign a document, but who knows nothing of the name of that other, except from having seen him so sign the document, is admissible as evidence of the name of that other, although the document itself may not be admissible. (*Reg.* v. *Toole*, 3 Jur., N. S., part 1, p. 420).

A medical witness proved that he had seen J. E. on the morning of the trial, and that he could not speak or hear; he added—"If brought here, he would not be able to give evidence; yet he might be brought here without danger to life, though I, as his physician, would not permit him to roam abroad if I knew it." Another witness stated that he had seen J. E. the preceding day in the street, near the door of his shop. Upon these facts, the deposition of J. E. before the magistrate was held to be admissible in evidence, under the 11 & 12 Vict. c. 42, s. 17. (*Reg.* v. *Cockburn*, 3 Jur., N. S., part 1, p. 447).

False Pretences.]—Where the pretence is known to the prosecutor to be false, but he still parts from his money under a desire to entrap the defendant, this is not an obtaining money by false pretences. (*Reg.* v. *Mills*, 3 Jur., N. S., part 1, p. 447).

We have next to direct the attention of our readers to two most important decisions. We refer to *Reg.* v. *Sherwood* (3 Jur., N. S., part 1, p. 547) and *Reg.* v. *Bryan*, (3 Jur., N. S., part 1, p. 620). In the first, the Court, consisting of eleven of the learned judges, unanimously held, that a false representation of the *quantity* of an article sold and delivered is a false pretence within the meaning of the statute. The facts were as follows:—The defendant agreed to deliver a load of coals at a certain price per cwt.; he accordingly delivered a load, to his knowledge weighing 14 cwt. He afterwards falsely and fraudulently represented that the quantity he had delivered weighed 18 cwt., and that he had seen them weighed, and thereby obtained the price of 18 cwt. A conviction upon these facts was upheld. In *Reg.* v. *Bryan*, ten of their Lordships (Willes, J., and Bramwell, B., being of a different opinion) held that a false representation of the *quality* of an article, made in the course of a bargain or contract, is not a false pretence within the statute. The defendant had falsely represented that certain plated spoons which he offered in pledge "were of the best quality; that they were equal to Elkington's A; that the foundation was of the best material; and that they had as much silver on them as Elkington's A." By these representations the prosecutors were induced to advance money on the spoons. But the majority of the Court held, that a conviction for obtaining money by false pretences could not be sustained.

(*To be continued*).

Correspondence.

ON CERTIFYING TITLES.

TO THE EDITOR OF "THE JURIST."

SIR,—At p. 54 of their Report, "the Commissioners appointed to consider the subject of registration of title with reference to the sale and transfer of land" have enumerated under six headings the advantages which are expected to result from the adoption of the plan recommended by the majority of them.

It probably has occurred to many of your readers who have troubled themselves with the perusal of this voluminous and (so far as practical results are concerned) useless blue book, that the supposed advantages of the scheme which it advocates may more briefly be stated to consist of—first, the partial attainment of the *doubtful* benefits of a general register *of deeds;* and, secondly, some diminution of the expenses attending the sale and mortgage of (but no other dealing with) land by means of the gradual abridgment (where no warranty is given) of the period during which a retrospective investigation of title is to be carried, and the immediate abolition (where a warranty is given) of the necessity for any retrospective investigation *at all*, coupled with, in either case, a decrease in the length of conveyances on sale or mortgage.

The writer of this has no wish to discuss the advantages or disadvantages of a general register of assurances. That branch of the subject is pretty well worn threadbare: suffice it to remind the reader that many competent persons entertain the opinion, that registration per se is an evil, not a good, as leading to unnecessary exposure and expense, and that those who seek for the establishment of a register, on the *ground of insecurity of title* under the existing state of things, have failed to make out their case.

It is to the other of the anticipated advantages of the plan which has been favourably reported upon, viz. the relief which it will afford in respect of the examination into and proof of title, that the writer addresses himself, with the sole object of raising the question whether this benefit cannot be gained without any register at all.

That it is practicable, and in certain cases politic, to empower a public functionary to examine, either personally, or with the aid of counsel and solicitors, into the title of land, and by the conjoint operation of his certificate and registration to confer a parliamentary title on the purchaser or mortgagee of such land, is admitted in the Report. Indeed, the notion of a warranted title is based upon the scheme of investing the registrar with powers of this kind; but whether or not it is essential to the efficacy of a plan of certifying titles, so as to confer on purchasers, mortgagees, *or owners* an absolute or a qualified right of ownership, that it should be accompanied by the establishment of a register, is a matter not touched upon by the recent Report, probably because it would have been ultra vires for commissioners appointed to consider the subject of "*registration*" to entertain the point.

Adopting the hypothesis of the major part of the commissioners, and assuming that there is no special benefit to be derived from a register of assurances merely, the idea naturally enough suggests itself, that, without asking Government to assume the office of insurers of titles in any case, a plan confined to the official examination of titles as shewn by un-registered title deeds, with an enactment that the certificates granted by the examiner or examiners should in all cases be primâ facie evidence and (after due publicity and the lapse of a certain interval) *conclusive evidence* of the certified rights of ownership, might readily enough be elaborated, and that such plan would possibly effect all that is good, and avoid much that is evil, in the scheme to which the assenting commissioners have subscribed.

To compel any person to submit his title to the ordeal of an official examination would no doubt be wrong. It should be optional with all either to do so or not; but it can hardly be questioned that a very great boon would be conferred on landowners were the means given to them of procuring authentic primâ facie evidence of the state of their titles at any given moment, so as to enable them to debar purchasers and mortgagees, by *a reasonable stipulation*, from entering upon the customary sixty years' investigation; and that this boon would be greatly enhanced were it possible for owners to acquire indefeasible titles against all the world by advertising their certificates, and by nonclaim thereon for some comparatively short period.

The suggestion which the writer makes is, that this boon may be more readily and more universally attained without, than it would be with, the accompaniment of a register of any kind, (except, of course, a record for safe custody of certificates actually granted), and that by its attainment the real ends of legislative interference with the present law, viz. *certainty and security of title to land, and simplicity and inexpensiveness in its transfer*, may be approximately arrived at without bringing upon landowners the evils of a compulsory exposure of title, and the various disadvantages attendant upon the registration of freehold and leasehold interests in and charges upon the same land *separately*, while the real or equitable ownership is or may be wholly unregistered; and without, moreover, encountering the difficulty, nay the impossibility*, (which is not alluded to in the Report), of insuring due accuracy in the registration of portions of an entire estate, such as building ground sold off in small lots subsequently to its being first placed on the register.

Whether or not there is any value in this suggestion is the question to raise which these observations have been written; and it remains only, therefore, for the writer to express a hope that you or some of your readers may feel inclined at a future time to consider more in detail the notion of "*certifying titles without registration*." H. T. F.

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* The blue book appears, indeed, to have been useless to our correspondent. It shews in detail and by example the method of effecting with simplicity and absolute accuracy that which he, in the presumption of uninquiring ignorance, pronounces to be impossible.—ED.

Lambeth, dealer in iron.—*Elizabeth Clarke*, Newport, Monmouthshire, potter.—*Frederick George Beale*, Gloucester, billbroker.—*Levy Pearson*, Rochdale, Lancashire, wholesale grocer.—*John Holmes*, Branham, Yorkshire, builder.—*John Henson* and *James Walker*, Sheffield, coachbuilders.

PETITION ANNULLED.

Thomas Cook, Thorpe-le-Soken, Essex, shoemaker.

PARTNERSHIPS DISSOLVED.

Richard Tompsett Croft and *Henry Eycott Wood*, attornies and solicitors.—*William Scrivens* and *William Blackman Young*, Hastings, attornies and solicitors.—*William Blackman* and *Augustus George Guy*, Raymond-buildings, Gray's-inn, attornies and solicitors.

SCOTCH SEQUESTRATIONS.

David Patrick, Glasgow, commission agent.—*John Bell Muschamp*, Edinburgh, general agent.—*Matthew Donald*, Glasgow, wright.—*Alexander Moir*, Glasgow, house factor.—*John Innes*, Huntley, miller.

TUESDAY, *July* 7.

BANKRUPTS.

THOMAS PEARSON, Calthorpe-place, Gray's-inn-road, and Acton, ironmonger, July 21 at half-past 12, and Aug. 25 at 1, London: Off. Ass. Lee; Sols. J. & J. H. Linklater & Co., 17, Sise-lane.—Pet. f. June 1.

HENRY GLADWELL MORTIMER, Lee, Kent, builder, July 21 at 1, and Aug. 11 at 11, London: Off. Ass. Edwards; Sols. Bothamley & Freeman, 39, Coleman-street.—Pet. f. July 3.

TILDEN SMITH, JAMES HILDER, GEORGE SCRIVENS, and FRANCIS SMITH, Hastings, Sussex, bankers, (trading under the style or firm of Smith, Hilder, Scrivens, & Smith), July 23 at 11, and Aug. 28 at 12, London: Off. Ass. Whitmore; Sol. Langham, 10, Bartlett's-buildings, Holborn.—Pet. f. June 27.

WILLIAM HENRY LIDBETTER, Tunbridge Wells, Kent, corn dealer, July 18 at 11, and Aug. 21 at 1, London: Off. Ass. Whitmore; Sols. Cripps, Tunbridge Wells; Church & Langdale, 38, Southampton-buildings, Chancery-lane.—Pet. f. July 3.

JAMES EDGAR, Bury St. Edmunds, Suffolk, draper, July 17 at half-past 12, and Aug. 21 at 11, London: Off. Ass. Cannan; Sols. Bennett & Paul, 1, Sise-lane, Bucklersbury.—Pet. f. June 23.

JOHN FAITH, Cambridge-road, Mile-end, provision merchant, July 17 at 12, and Aug. 21 at half-past 11, London: Off. Ass. Cannan; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, Bucklersbury.—Pet. f. July 4.

HENRY SIMPSON, Ipswich, Suffolk, butcher, July 22 at half-past 12, and Aug. 12 at 2, London: Off. Ass. Pennell; Sols. Jackaman, Ipswich; Aldridge & Bromley, Gray's-inn.—Pet. f. June 27.

WILLIAM RANDALL, Maidstone, Kent, hotel keeper, July 20 at half-past 1, and Aug 12 at 1, London: Off. Ass. Pennell; Sols. J. & J. H. Linklater & Co., 17, Sise-lane.—Pet. f. July 4.

MATTHEW WILSON, Devonshire-square, City, commission agent, July 20 at 1, and Aug. 12 at 12, London: Off. Ass. Nicholson; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. July 3.

ROBERT FALCONER, Wharf, Kingsland-basin, Hertford-road, dealer in manure, (at present in the Debtors Prison, Whitecross-street), July 22 at half-past 11, and Aug. 12 at half-past 12, London: Off. Ass. Nicholson; Sol. Roscoe, 14, King-street, Finsbury-square.—Pet. f. June 29.

WILLIAM FINCH the younger, Dudley Port, Tipton, Staffordshire, paper dealer, July 17 and Aug. 7 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham.—Pet. d. July 6.

GEORGE JONATHAN ROBINSON, Nottingham, silk merchant, July 28 and Aug. 18 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. July 3.

WILLIAM BURFIELD, Blaenavon, Monmouthshire, ironmonger, July 20 and Aug. 18 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan & Girling, Bristol.—Pet. f. July 3.

JOHN DOHERTY, Liverpool, provision merchant, July 3 and 31 at 11, Liverpool: Off. Ass. Turner; Sols. Lowndes & Co., Liverpool.—Pet. f. June 9.

GEORGE NICHOLSON, Newcastle-upon-Tyne, cattle dealer, July 15 and Aug. 19 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Wright, Carlisle; Hoyle, Newcastle-upon-Tyne.—Pet. f. June 29.

MEETINGS.

Henry Bunny, Newbury, Berkshire, brickmaker, July 17 at 11, London, last ex.—*Elizabeth Hill*, Little Moorfields, City, coach builder, July 18 at 11, London, aud. ac.—*Wm. Benning*, Fleet-street, City, law bookseller, July 18 at 12, London, aud. ac.—*Edward F. Ellis*, Hendon, Middlesex, and Royal Exchange-buildings, City, stockbroker, July 17 at 2, London, aud. ac.—*Octave Foa*, Old Broad-street, City, merchant, July 28 at 11, London, aud. ac.—*Henry Walters* and *Benj. Walters*, Alfreton, Derbyshire, druggists, July 18 at 10, Sheffield, aud. ac.—*John Marshall*, Salisbury, Wiltshire, coal merchant, July 30 at 11, London, div.—*Robert Taylor*, Sunderland, Durham, draper, Aug. 5 at 12, Newcastle-upon-Tyne, div.—*Robert Atkinson*, York, hairdresser, July 28 at 11, Leeds, div.—*John Beet*, Halifax, Yorkshire, linendraper, July 28 at 11, Leeds, div.—*George Parker*, Leeds, grocer, July 28 at 11, Leeds, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

S. T. Cundy, Belgrave-wharf, Lower Belgrave-place, Pimlico, statuary, July 30 at 12, London.—*Charles Moody*, Portsea, saw maker, July 30 at half-past 12, London.—*Octave Foa*, Old Broad-street, City, merchant, July 28 at 11, London.—*Gilbert Hodgson* and *Wm. Atcheson*, Sunderland, Durham, timber merchants, July 31 at half-past 11, Newcastle-upon-Tyne.—*George Gillett*, Preston, Lancashire, cabinet maker, July 28 at 12, Manchester.—*John Barry*, Manchester, linendraper, July 29 at 12, Manchester.—*Thomas Bennett*, Oldbury, Worcestershire, and West Bromwich, Staffordshire, ironmaster, Aug. 6 at half-past 10, Birmingham.—*S. Armson*, Walbrook Coseley, Sedgley, Staffordshire, builder, Aug. 6 at half-past 10, Birmingham.—*George Baxter* and *George Toone*, Nottingham, dyers, July 28 at half-past 10, Nottingham.—*Wm. Turner* and *Thomas Mason*, New Mills, near Ashbourne, Derbyshire, cotton spinners, Sept. 15 at 11, Nottingham.

To be granted, unless an appeal be duly entered.

Julius Roberts, Poplar, Middlesex, engineer.—*G. Brooke*, Leadenhall-market, City, and Windsor, Berkshire, provision dealer.—*Thomas White* the younger, Portsmouth and Gosport, shipbuilder.—*T. Wells*, Dorset-place, Clapham-road, Surrey, grocer.—*James Keywood* the younger, Littlehampton, Sussex, plumber.—*Robt. R. Charles* and *Wm. Fordyce*, Haughton, Northumberland, paper manufacturers.

PETITION ANNULLED.

Gustavus Gidley, Torquay, Devonshire, sharebroker.

SCOTCH SEQUESTRATIONS.

Thomas Hutchison, Glasgow, baker.—*A. Thomson & Co.*, Edinburgh, woollendrapers.—*J. Johnston*, Hamilton, blacksmith.—*Walter Morison*, Aberdeen, butcher.

ADMINISTRATION OF JUSTICE.—The royal commissioners appointed to inquire and examine into the constitution of the superior courts of law at Westminster, and into the existing arrangements of the circuit courts, have agreed to their report, which will be printed and ready to be submitted to Parliament before the close of the session. It is understood that the commissioners will express their opinion, founded upon the evidence before them and their own experience, that no diminution of the number of judges can take place. Indeed, at this very time, the several courts can scarcely make up a full court, or get through the Nisi Prius sittings in time for the circuits. Several changes in the times and manner of holding the assizes will be recommended, as well as the division of the larger counties, and a more equal distribution of the circuits, with other matters of detail of a practical nature, so as to insure a more speedy and uniform administration of justice, both civil and criminal.

MEMBER RETURNED TO SERVE IN PARLIAMENT.—Lachlan Duff Gordon, Esq., for the county of Banff, in the room of James Earl of Fife, who has accepted the office of Steward of her Majesty's Manor of Hempholme.

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GAZETTES.—FRIDAY, *July* 10.

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WILLIAM BLACKMAN, Northfleet, Kent, victualler, July 25 and Aug. 21 at 11, London: Off. Ass. Whitmore; Sols. Van Sandau & Cumming, 27, King-street, Cheapside.—Pet. f. July 9.

GEORGE WYTHE DANIEL, Harts Woodford, Essex, hotel keeper, July 25 at 11, and Aug. 21 at half-past 12, London: Off. Ass. Cannan; Sols. Paterson & Longman, 68, Old Broad-street.—Pet. f. July 7.

JOHN DOWN GORDON, Eldon-street, Finsbury, pianoforte manufacturer, July 20 at 11, and Aug. 24 at 12, London: Off. Ass. Pennell; Sols. Venning & Co., 9, Tokenhouse-yard.—Pet. f. July 7.

MAURICE EVANS and JOHN WILLIAM HOARE, Great St. Helens, London, and Trinity Wharf, Rotherhithe, Surrey, export wine and bottled beer merchants, July 24 at 12, and Aug. 27 at 11, London: Off. Ass. Bell; Sols. J. & J. H. Linklater & Co., 17, Sise-lane.—Pet. pres. July 11.

JOHN BORSLEY, Argyle-square, King's-cross, builder, July 21 at 11, and Aug. 24 at 1, London: Off. Ass. Nicholson; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. July 8.

JOHN LOWNDS, York-place, Vauxhall-bridge-road, Pimlico, watchmaker, (also in co-partnership with Robert Lownds, trading under the names of R. & J. Lownds, at Belgrave-street, South, Pimlico, in the carpet beating and scouring and feathers purifying business), July 20 at 12, and Aug. 24 at half-past 1, London: Off. Ass. Pennell; Sol. Manning, 5, Lyon's-inn.—Pet. f. July 8.

EBENEZER TALBOTT and SAMUEL GRICE, Newarn, Lydney, Gloucestershire, ironfounders, (trading under the firm and style of the Severn and Wye Foundry Company), July 21 and Aug. 18 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Girling, Bristol.—Pet. f. July 7.

JOHN EVANS, Aberystwith, Cardiganshire, shipbuilder, July 21 and Aug. 18 at 11, Bristol: Off. Ass. Acraman; Sols. Hughes & Roberts, Aberystwith; Brittan & Sons, Bristol.—Pet. f. July 7.

JOHN GRIMSHAW, Guiseley, Yorkshire, cloth manufacturer, July 27 at half-past 11, and Aug. 17 at 11, Leeds: Off. Ass. Hope; Sols. Ferns & Rooke, Leeds.—Pet. d. July 7.

NATHANIEL TIMPERLEY LUCAS, Macclesfield, Cheshire, victualler, July 22 and Aug. 19 at 12, Manchester: Off. Ass. Fraser; Sols. Parrot & Co., Macclesfield.—Pet. f. July 1.

JOHN DOHERTY, Liverpool, corn merchant, July 17 and Aug. 14 (and *not* July 3 and 31, as before advertised) at 11, Liverpool: Off. Ass. Turner; Sols. Lowndes & Co., Liverpool.—Pet. f. June 9.

MEETINGS.

Richard Duncan, Lime-street, City, wine merchant, July 20 at 12, London, last ex.—*Samuel Hunter*, Gateshead, Durham, anchor manufacturer, July 21 at 11, Newcastle-upon-Tyne, last ex.—*John W. Clarke*, Whittlesea, Isle of Ely, seed merchant, July 23 at half-past 11, London, aud. ac.; July 31 at half-past 11, div.—*J. Curtis*, Gresham, Norfolk, tailor, July 23 at half-past 11, London, aud. ac.—*Walter Sully*, Strand, printer, July 23 at half-past 11, London, aud. ac.; July 31 at half-past 1, div.—*Luke Ward*, Wisbech St. Peter, Cambridgeshire, plumber, July 23 at 11, London, aud. ac.—*John Marshall*, Salisbury, Wiltshire, coal merchant, July 23 at 12, London, aud. ac.—*Thomas Ward*, Bow-churchyard, stock manufacturer, July 22 at 11, London, aud. ac.; Aug. 3 at half-past 2, div.—*Thomas Harrison*, Chancery-lane, Middlesex, and West End, Esher, Surrey, tailor, July 22 at 11, London, aud. ac.; Aug. 3 at half-past 12, div.—*Chas. Copland* and *Wm. George Barnes*, Botolph-lane, London, and Southampton, provision merchants, July 20 at 11, London, aud. ac.; Aug. 3 at 11, div.—*Morris Roberts Syers*, *James Walker*, and *Daniel Backhouse Syers*, Ball-alley, Lombard-street, London, and Liverpool, merchants, July 20 at 11, London, aud. ac. sep. ests. of *Morris Roberts Syers* and *Jas. Walker*; Aug. 4 at 11, div. sep. ests. of *Morris Roberts Syers* and *James Walker*.—*Philemon Guy*, St. James's-road, Holloway, builder, July 22 at 11, London, aud. ac.—*Thomas Harrison*, Harrietsham and Maidstone, Kent, coal merchant, July 22 at 11, London, aud. ac.—*John Vickers*, Eldon-road, Victoria-road, Kensington, Middlesex; Cross-lane, St. Mary-at-hill, Lower Thames-st., London; and High-street, Southwark, Surrey, wine merchant, July 20 at 11, London, aud. ac.; Aug. 3 at 12, div.—*Albert Wm. Howard*, New Church-street, Bermondsey, Surrey, and Pudding-lane, London, timber merchant, July 22 at 11, London, aud. ac.—*Robt. Adams*, Liverpool, merchant, July 24 at 11, Liverpool, aud. ac.—*Thomas Lewis*, Nantwich, Cheshire, draper, July 23 at 11, Liverpool, aud. ac.—*James Wakinshaw*, Monkwearmouth, Sunderland, Durham, iron manufacturer, July 23 at 12, Newcastle-upon-Tyne, aud. ac.—*John Mottram*, Shrewsbury, hop merchant, July 20 at half-past 11, Birmingham, aud. ac.—*Francis Mare*, *George Keen*, and *Edmund John Eardley Mare*, Plymouth, Devonshire, ironfounders, Aug. 3 at 10, Plymouth, aud. ac. and div.—*W. Conway*, Plymouth, Devonshire, builder, Aug. 3 at 10, Plymouth, aud. ac. and div.—*Robert Atkinson*, York, hairdresser, July 28 at 11, Leeds, aud. ac.—*Geo. Parker*, Leeds, grocer, July 28 at 11, Leeds, aud. ac.—*Wm. Peel*, Staincliffe, Yorkshire, blanket manufacturer, July 28 at 11, Leeds, aud. ac.—*John Best*, Halifax, linendraper, July 28 at 11, Leeds, aud. ac.—*William Wilks Blackett*, *Richard Thackray*, and *Robert Tennant*, Manchester, cloth merchants, July 23 at 11, Leeds, aud. ac.—*George Binns* and *Godfrey Binns*, Hartshead Moor, Cleckheaton, Yorkshire, cloth manufacturers, July 23 at 11, Leeds, aud. ac.—*Henry Williamson*, Leeds, cloth merchant, July 23 at 11, Leeds, aud. ac.—*Robert Welsh*, Huddersfield, woollen-cloth merchant, July 23 at 11, Leeds, aud. ac.—*Edw. Teall* and *Reuben Teall*, Leeds, boat builders, July 23 at 11, Leeds, aud. ac. joint and sep. ests.—*Geo. Thompson*, Knaresborough, Yorkshire, leather seller, July 23 at 11, Leeds, aud. ac.—*W. Williford*, Scarborough, Yorkshire, wine merchant, July 23 at 11, Leeds, aud. ac.—*John Alfred Hatfield*, Bradford, Yorkshire, draper, July 23 at 11, Leeds, aud. ac.—*Wm. Bulmer*, Bedale, Yorkshire, grocer, July 23 at 11, Leeds, aud. ac.—*John Bennington Blythe*, Minerva-place, New-cross, Old Kent-road, Surrey, smelter, Aug. 3 at 2, London, div.—*Jas. Lamb*, *Edward Lewis*, and *Wm. Thomas Allum*, Wouldham, Kent, and Kingsland-road, Middlesex, cement manufacturers, Aug. 3 at 1, London, div.—*Jas. Craggs Herring*, and *Wm. Herring*, West Boldon, Durham, merchants, Aug. 4 at half-past 11, Newcastle-upon-Tyne, div. sep. est. of *James Craggs Herring*.—*C. B. Gibbs*, Eccleshall, Staffordshire, grocer, July 31 at half-past 11, Birmingham, div.—*Robert Taylor*, Sunderland, draper, July 23 at half-past 11, Newcastle-upon-Tyne, aud. ac.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

A. Ellis, Wimborne, Dorsetshire, wine merchant, Aug. 4 at 1, London.—*Thomas Jones*, Merthyr Tydfil, Glamorganshire, grocer, Aug. 3 at 11, Bristol.—*John M. Cooper*, Sunderland, Durham, shipowner, Aug. 3 at 11, Newcastle-upon-Tyne.—*Wm. R. Carr* and *Henry F. Scott*, Wallsend, Northumberland, iron manufacturers, Aug. 4 at half-past 11, Newcastle-upon-Tyne.—*Thomas Laidler*, Jarrow, Durham, coke burner, Aug. 4 at half-past 11, Newcastle-upon-Tyne.—*Jas. Wearing*, Ulverston, Lancashire, joiner, Aug. 6 at 1, Manchester.—*B. Chadwick*, Liverpool, chronometer maker, July 31 at 11, Liverpool.—*Wm. J. Gregory*, Leeds, bedding manufacturer, Aug. 4 at 11, Leeds.—*Edw. Teall* and *Reuben Teall*, Leeds, boat builders, July 31 at 11, Leeds.—*John G. Thomas*, Halifax, Yorkshire, damask manufacturer, July 31 at 11, Leeds.—*Wm. Mee*, Leicester, manufacturer of hosiery, Aug. 4 at half-past 10, Nottingham.

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THE JURIST.

LONDON, JULY 18, 1857.

THE most important rules of evidence are those which are directed to the exclusion of testimony which is irrelevant, unauthentic, or calculated to create unfair prejudice. Life and liberty daily depend upon the due observance of these rules: they are of greater practical consequence, though their operation is less noticed, than the boasted palladium of our liberties, the writ of habeas corpus; and without their observance, trial by jury would become "a mockery, a delusion, and a snare." It is just because their operation is not observed, except by those engaged in the actual administration of the law, (particularly the criminal law), that their importance is not always adequately appreciated; and it is on that account extremely desirable to embrace any opportunity which may arise to exhibit their practical operation, or, still more, to illustrate the peril which results from their being set at naught. We are sorry to say that in this latter point of view the case of *Madeleine Smith* affords an apt and painful illustration.

The Scotch law of evidence differs materially from our own. First, the prisoner is liable to be examined before trial; and, secondly, hearsay evidence is in general admissible when the declarant is dead. The doctrine which prevails on this branch of the subject is thus stated in Tait's Treatise on the Law of Evidence in Scotland, (p. 430, 2nd ed.):—"To this rule, excluding evidence upon the relation of others, there is an exception in the case where those others have died since the relation to the witness. Such evidence is admitted in England only in special cases. . . . But in this country evidence of what a person since dead, or who perhaps has become insane, has said deliberately and seriously, and not in a careless or jocular manner, (if such person would have been a competent witness), is admitted in all cases, as it is the best evidence which can be obtained in the circumstances, since the original narrator cannot now be examined. . . . But though hearsay evidence is admitted in such cases, it is far inferior in weight to the deposition of a witness regularly taken in process, and will only receive such regard as may seem, in the whole circumstances of the case, to be due to it as an ingredient in the evidence." The admissibility, however, of such evidence seems to have been questioned even by learned judges on the Scotch bench in recent times. Thus, in Bell's Supplement to Hume's Commentaries on Criminal Law, (p. 292), we read, that, on a trial for murder in 1835, it was proposed to read in evidence the deposition of the deceased made on the day after his injury. This was objected to, on the ground that the deponent stated that he hoped he should recover. Lord Moncrieff expressed a doubt as to the competency of the evidence, stating that it was the invariable practice in England to require that the person should believe he was dying;

but the Lord Justice Clerk and Lords Mackenzie and Medwyn held, that by the law of Scotland the declaration was admissible.

Now, in the case of *Madeleine Smith* the sole question was, whether she actually administered the poison of which it was plain the deceased had died. The indictment, in conformity with the principles of evidence we have stated, charged, in order to admit evidence of them, two attempts to poison the deceased—that is to say, two administrations of arsenic: first, on the 19th February; and, secondly, on the 22nd February; and then it charged, thirdly, an administration of arsenic on the 22nd or 23rd March, and, as the consequence of one or all of these poisonings, charged that she murdered the deceased.

What was the evidence as to her administration of the poison?

First, the fact that the deceased died of arsenic, and had exhibited arsenical symptoms on the 19th and 22nd February.

Next, her own confession that she had given the deceased cocoa on one occasion, and that she had purchased arsenic; to which it may be added, that the purchases proved were after the 19th February.

Thirdly, a body of letters, raising a moral probability that she might desire his death, because shewing, first, a criminal intercourse with him; secondly, a proposal of marriage from a third party accepted; thirdly, his possession of letters which, if disclosed, would ruin her; and, fourthly, his refusal to restore them.

Fourthly, a verbal declaration by the deceased to Miss Perry that he had been ill after taking cocoa from her, and suspected her; and, nevertheless, that he was going to see her again in a day or two.

Fifthly, that on one or two occasions the deceased had been in the house, (but always on appointment, and with the privity of a servant).

Sixthly, that she sent him an appointment for a secret meeting at her father's house on the Saturday, and that he, having missed that appointment, was in the neighbourhood on the night of Sunday, which was the fatal occasion.

Now, observe, the third head of evidence—the letters—went, (with the exception of the last, as to the appointment, and the possibility of an interview)—went entirely to motive.

The evidence as to the actual administration was, then, entirely composed (with the exception of the declaration) of the facts, that she had arsenic, (after the first symptoms of arsenical poisoning); that he died of arsenic; that she had once given him something to drink, in which poison might have been; that after that he had suffered arsenical symptoms; that she had sent for him; and that he was in the neighbourhood of her house on the fatal night.

Now, it is manifest, that apart from the declaration of the deceased, there was not any evidence against her. The whole case for the prosecution, then, so far as regarded the fact of administration, (which was really the only point in the case), rested on the declaration. We need hardly say, that mere motive, (or rather evidence of facts which might to her afford a motive), however material it may be to shew the intention of an act which in itself is clearly proved, is hardly competent to prove the act itself.

Well, then, all rested upon the declaration of the deceased to Miss Perry; and to shew the importance of the question as to its admissibility, let us observe, that one of the letters (No. 65) shewed that Miss Perry had had a quarrel with the prisoner; that there was no evidence that the prisoner had poison before the 19th; and that it appeared that the deceased was in the habit of taking meals with Miss Perry, and had dined with her on the 17th, two days before the date laid for the first poisoning.

The evidence of Miss Perry, who was a confidante of the deceased, and well aware of his intimacy with the accused, was this—"He dined with me on the 17th February, and said he should see the accused by appointment on the 19th. The deceased took tea with me on the 9th March; he said that he had seen her; he said he could not think why it was he was so ill after taking cocoa from her. I understood he alluded to two occasions, and I understood him to allude to the accused, for he had been speaking of her. I said, 'Why should you think so?' He said, 'Perhaps she would not be sorry to be rid of me.' He seemed to have suspicions of her, although not serious." By which surely the witness merely meant that he had not a settled conviction; for certainly the expression of suspicion, as she gave it, was serious enough with a vengeance. This was the only material piece of evidence as to the fact of the administration of arsenic by the accused, and of course it was of the very essence of the case. Let us look at it closely. Cross-examined, the witness admitted that she had been refreshed in her recollection of the date by the official who took her precognition of a fact, on which the Lord Justice Clerk severely animadverted; and it appeared that she had been examined six times for the prosecution, (although her examination was by no means lengthy), and after the judicial examination of the accused, who had confessed that she had once given the deceased cocoa, and that she had purchased arsenic. It was not asked whether the witness had been "refreshed" as to this in one of her six examinations, but it is very likely she was, as she had been on the important point of date, though not enough to get rid of this important fact—that the deceased had arsenical symptoms on the 19th February, before the accused had poison. We observe on this, in passing, to illustrate the peril of the Scotch (and French) systems of judicial examinations of accused parties: it is plain that the theory of the prosecution was framed on the two admissions so frankly made by the accused, that she had given the deceased cocoa, and that she had possession of arsenic; and then the evidence was "got up" to support that theory; and six different times is the only material witness "examined" in order to bring her evidence to square with it; and it transpires that the evidence is actually, on the matter of date, made to agree with it, at the suggestion of the official, who of course was aware (even if the witness was not) of the admissions of the accused.

Our chief object, however, is to illustrate the danger of admitting these declarations of the deceased. One great argument against their admissibility is the impossibility of testing the evidence, and the fatal facility it affords for manufacturing evidence against an accused party.

It is liable to the worst evil of hearsay, for the witness knows that the evidence cannot be contradicted. It is moreover open to this objection, that supposing the indictment had only been for intent to murder, and the party had not died, and had been called himself, he could not have proved a declaration to a third party, except as accompanying an "act done;" neither could he have stated his suspicion, but must have stated facts, and left the jury to draw their own inference. The admission of such evidence is the more remarkable, because the judges rejected some memoranda made by the deceased, (after the 11th February), although, as these were in his own handwriting, there could at least be no doubt that he made them, and they amounted not merely to clear proof of his own declaration, but his written and deliberate declaration. Indeed, they were rejected on that very ground, that they were deliberate, and might have been made for a purpose. But does not that equally apply to oral declarations, and more especially as to suspicion?—whereas the memoranda were, it appears, only as to facts.

The question on this part of the case is of so much legal interest that we insert at length the best report we have been able to procure of the judgment of the Court, which was delivered after taking time to consider, and after consultation with the other Lords of Justiciary:—

"The Lord Justice Clerk said that hearsay evidence was admissible under restrictions and conditions, which went in many instances to the entire rejection of it. What was proposed to be admitted were certain jottings in a memorandum-book, in which certain things were stated which affected vitally the charge. It was a very sacred duty not to relax the rules of evidence merely because it was material to the charge. It must be evidence legally competent to be tendered against the prisoner. Although material, if not legally admissible, it could not be received. It was important to consider in what circumstances, from what motive, and at what time these entries were made. Now, it was a remarkable fact, that before the date sought to be commenced with in this diary, as evidence offered by the Lord Advocate, the deceased had a purpose in writing these—purposely to strengthen his hold over the prisoner. He made that observation not merely with reference to the weight and credibility of these entries, but with regard to their admissibility. As it was a departure from all former procedure of the Court, he thought that the evidence tendered must be rejected.

"Lord Handyside said, that, according to his understanding, these entries were from the 11th February to the 14th March, and had reference only to the first and second charges of the indictment. The whole entries were made in pencil, and it was possible that the original entries might have been rubbed out, and others substituted at any period after the person making them had perhaps changed his mind or corrected his memory. He was impressed strongly with the danger of admitting a journal of this kind. He had come to the opinion, therefore, that the entries, which, as he understood, were offered in support of the first and second charges, should be rejected.

"Lord Ivory said he felt himself greatly relieved from responsibility after the opinions of their Lordships. He had come to the conclusion, after most anxious and repeated consideration, that these entries ought not to be excluded. He thought that this document valeat quantum was admissible as evidence, and that its weight and value was for the jury to consider. He would content himself with expressing his dissent from the judgments of their Lordships."

We do not think that even if the declaration had been admitted, it made a case against the accused; nor do we admit, that, assuming it to have been proved that the deceased had been with her on the fatal night, the evidence even then would have been adequate; for how could the suspicions of the deceased that the accused had poisoned him, even coupled with the fact that he had suffered under arsenical symptoms on one occasion before she had poison, be evidence that she had afterwards administered poison to him, especially as the assumption that he had again taken a poisoned draught from her, under the circumstances, would not only tend to neutralise the effect of, but be inconsistent with, his previous suspicions? The fact of the deceased having been with her on the fatal night would not at the utmost do more than shew that she might have administered poison to him—as any one might with whom he was that night, during the four or five hours unaccounted for; and several links were wanting to constitute a chain of circumstantial evidence on which it would be safe to convict; as, for instance, that he was in the house; that she made cocoa on that night, or had it made, and ready. Even adding those facts, the assumption of an administration of cocoa to the deceased, charged with arsenic, would be an inference not devoid of danger. To complete the case, it should have been shewn that he was with her from such a period on the night, and up to such a period; that it was a natural and probable inference that the arsenical symptoms at two in the morning should have arisen from arsenic administered within that time. That would not have been conclusive, for he might have put it himself into the cocoa, with or without her observing it; and the period within which arsenic begins to operate varies greatly; but still it would have been a reasonable amount of circumstantial proof, and would have doubtless warranted a conviction. But how infinitely short of this was the evidence, even including the declaration! There was no proof that the deceased had been with the accused that night; and though it was proved that two, if not three, hours before the time when they could well have met (for the house would hardly have been safe and quiet until midnight, the family going to bed about eleven, and the deceased was not seen in the neighbourhood after nine) he was in the vicinity of her house, that was accounted for by the fact that he called on some one; as to whom, or the nature of the business the deceased might have had with him, the prosecutor gave no evidence. There was, indeed, no evidence that the deceased had even seen the accused for six weeks before the death, and her own solemn declaration immediately afterwards that she had not seen him within that period was not contradicted. This must have been the first occasion on which the Crown sought to convict an accused party of the murder of a person by poison without any evidence that the accused had seen him within six weeks of his death! Nor was this all: it was the first instance surely in which, though suspicion arose, and the accused was examined, and apprehended almost immediately, no proof was offered that the accused had, in fact, on the occasion in question, anything ready for administration; there was no proof of any preparation of cocoa on the day or night in question, though the evidence and traces of it must certainly have been ascertainable in such a prompt investigation as took place; especially as the evidence for the prosecution shewed that the arsenic must have been boiled with the cocoa in order to hold such a quantity as 200 or 160 grains (the estimated quantity) in solution. And, further, while on the one hand it was proved that the deceased had arsenical symptoms before the accused had poison, so on the other hand there was no proof that the arsenic which she had (and which it was shewn could be traceable by its colouring matter) was the arsenic which was found in his stomach. As to any found in the tissues, there is this important observation, which ought never to be lost sight of in cases of poisoning by arsenic, that when once absorbed into the blood*, it never departs from the body; from which it follows, that arsenic found in the tissues especially may have been administered a month before the death, or even a much longer time. The case for the prosecution was, that the three poisonings had all been by the same party, (the only probable theory, for it is not supposable that at the same time two persons not acting in concert should be engaged in poisoning the same party), and accordingly the accused was charged with all three. But the Court directed an acquittal on the first charge, on which the jury found a verdict of not guilty, as they could hardly have failed to do, since the accused was not proved to have had poison until after the first symptoms of arsenical poisoning. Yet if not guilty of the first poisoning, how was it possible to find her guilty of the second or third? The only material piece of evidence in the case was the declaration of the deceased proved by Miss Perry, which took place before the final poisoning, and referred to two prior poisonings; and if that, as the Court most justly considered, was no evidence as to the prior poisonings, how could it have been evidence as to the subsequent poisoning?

It was conceded by the Court that there was no evidence against the prisoner of a poisoning prior to the 21st; and the case for the prosecution as to the subsequent poisonings mainly rested on the fact of her possession of arsenic, the symptoms of arsenic, and the declaration by the deceased of suspicion as to two poisonings prior to the 9th March. With regard to the symptoms of arsenic, as they were proved to have existed before the prisoner purchased poison—and she is entirely acquitted as to the first poisoning on that very ground—the inference raised is wholly in her favour, for the probability is, and it was the theory of the prosecution, that if the earlier symptoms did not arise from poison administered by her, the later symptoms and the fatal result did not arise from poison administered by her. The great fact on which the prosecutor relied was her purchase of poison; and on that head the strength of the case for the prosecution lay in these facts—that she gave false excuses for the purchases at the time they were made; that she gave a different excuse (viz. the use of the arsenic for cosmetic purposes) when she was examined; that this excuse could not apply to the prussic acid which she had sought to obtain; that the purchases proved were, first, after his refusal to return the letters, (the 18th February); secondly, after his imperative demand for explanation as to the marriage with Minnoch, (the 5th March); and that after those purchases he had arsenical symptoms. There was, be it observed, evidence of an appointment for the 19th February, but no evidence of any interview after that, nor of any actual administration of anything to the deceased at any time subsequent to the possession of poison.

Now, if the possession of poison was accounted for, the whole strength of the case on this head would be destroyed; and the most natural, and to our minds, on reading the letters, the most obvious supposition is, that she had purchased the poison for herself. Her letters just before she sought to procure prussic acid, and did for the first time obtain arsenic, viz. the 21st February, clearly pointed at suicide; and the cosmetic theory which her counsel adopted would not explain the attempted purchase of the prussic acid. Considering the state of frenzy in which the girl was on the 21st February, and the probability that she was in a similar state (after the letter of the 5th March) when she purchased the second quantity of arsenic on the 6th March, what could be more probable than that she should provide herself with the means of suicide, in case either pregnancy or the exposure of her character should take place. The fact of the purchase of poison is, at all events, as consistent with the supposition of suicide as of murder. That the quantities purchased were tenfold greater than necessary for the destruction of life militates no more against the one supposition than the other; and that she should have made two separate purchases no more supports the one than the other; and moreover the second purchase is explainable on one of two obvious grounds, viz. first, that between the time of the first purchase (the 21st February) and the second (the 6th March) she had, as indeed the letter of the deceased on the 5th March plainly intimates, reason to believe that the difficulty had blown over, and therefore had thrown the poison away, or used it as a cosmetic; and next, that on the 6th she was going to the country house, and might desire to have a packet of arsenic at both residences, to be ready in case the dreaded exposure should come upon her at either. Bearing in mind her uncertainty as to the time at which it might come upon her, this surely is a reasonable supposition; more so than that she should have purchased arsenic to poison her lover, whom she was not to see during her absence from Glasgow, for a period of ten days. To this is to be added that both purchases were open. The fact that she gave a false reason on those occasions is immaterial, since no one avows an intention of suicide; and the feigned purpose would require a purchase of a quantity considerably larger than necessary to destroy human life. That she should have stated, when examined, not that she purchased the arsenic as a cosmetic, but that she used it as such, is not much more material, especially as, first, she stated also the excuse which she gave at the druggist's; secondly, there was evidence that she might have so used it, and that she knew it might be so used; thirdly, it was probable that she might have used it after the danger apprehended on each occasion had apparently passed away; and, fourthly, it is plain that during the time which intervened between the first purchase and the second, and between the second and the death, she had on each occasion reason to hope that the danger had passed away. No one can question that a person would gladly discard the idea of suicide as soon as possible, and get rid of the possession of poison as soon as it appeared no longer necessary for the purpose. Neither can it be doubted, that, on the other hand, a person would wait as long as possible to see if there was any urgent necessity for suicide, or if it could not be avoided. It would have been worse than suicidal to have poisoned the deceased, he retaining the letters, until, at all events, it was beyond all doubt that he could not be won over. That this hope had not been exhausted up to the fatal night is plain from the prisoner's letters of appointment; and the theory of the prosecution, that the deceased ardently responded to the one which reached him last, tends obviously to the same conclusion. Then the hope could not have been exhausted until the fatal night. If then exhausted at an interview between the parties, could it have happened without altercation or exasperation on both sides? And on that supposition is it likely that he would have received poison from her, with his previous suspicions, which must then have revived, that she "wished to get rid of him?" The suggestion of the prosecution was, that the letter of the 5th March immediately exhausted all hope in the prisoner's mind, and determined her to murder, and that the later letters were deceptive. No doubt it might have been so, for that is a suggestion which it would be impossible to disprove. But the question is, whether there was evidence that it was so. On a trial for murder it is not enough merely to suggest a theory, and say that the accused might have intended to do it, and infer, from her providing the means of murder or suicide, that she committed murder, without any proof that she ever had even an opportunity of committing it. It is enough for the accused that the possession of the poison is accounted for on a theory consistent with the facts, and consistent also with innocence. The possession of the arsenic is accounted for by the theory of contemplated suicide, whether the cosmetic theory were true or false. But there was no evidence that it was false; and if true, then it dispenses with the theory of suicide, except as to the attempted purchase of prussic acid; and it is most important that the use of cocoa is proved to have been begun so far back as November, 1856, some months before Minnoch proposed, and long before (even on the theory of the prosecution) any motive for desiring the death of the deceased had arisen. Thus, then, there was at the utmost only a case of suspicion, and that a case explainable on a theory consistent with the facts, and consistent with entire innocence. That being so, was there a case for the jury? The judges themselves thought not as to the first charge. The theory of the prosecution was, that if the prisoner was guilty on the third, she was on the first. She was not guilty of the third, if not guilty of the first.

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* As it very rapidly is, insomuch that in this very case it was said by the medical witnesses, that it is not what is found in the stomach, but what has been carried off by absorption, which kills the recipient, and on this occasion only five grains were found intact in the stomach.

Yet the accused had a most narrow escape from conviction on the third—the capital charge. Only by a majority of the jury was the charge found not proven. So that the accused was nearly convicted of murder, without any evidence that she had seen the deceased for six weeks previous to his death. The counsel quoted the case of *Eliza Fenning;* but there, at all events, it was proved that the girl had an opportunity of administering the poison to the deceased, for she resided in his house, and was in his service. The probabilities of conviction in the case which we are reviewing were doubtless increased by the able but somewhat unscrupulous speech of the Lord Advocate, and by the manner in which the Lord Justice Clerk pressed against the prisoner the licentiousness of some of her letters, laying down to the jury that they were to consider, not merely whether the nature of the letters would make her anxious to procure them, but whether they did not shew that the accused was a person capable of conceiving any way of avoiding exposure, (that is, murder), "and harbouring any feeling of revenge when driven to madness." The licentiousness of the letters surely could not shew that the writer was capable of committing murder to recover them; and the desire to recover them would be quite a different feeling from the desire of revenge, and indeed, in some points of view, inconsistent with it; for revenge might be regardless of exposure, (which was certain to result from murder), and the desire to avoid exposure would argue a far more prudent state of mind. And then as to the madness, it was the frenzied agony of apprehension, couched in terms of tender and impassioned entreaty, and of a sad desperation, pointing much more to suicide than murder. Above all, the narrow escape of the accused from conviction was owing to the departure from English rules of evidence, to which it has been our main object to draw attention.

Some discussion has taken place in our journals upon the difference, if any, between the verdict of "not guilty" and "not proven," especially with reference to the important point whether on "not proven" the accused can be subjected to a second trial. Baron Hume (Com. Cr. Law, b. 2, c. 16, p. 440) gives the history of the practice of returning verdicts of "not proven," whence it clearly appears that originally it was merely the jury's way of saying *not guilty*, "as it was thought more suitable for them to employ the terms 'proven' and 'not proven,' as clearly referable to their own peculiar department, than those of 'guilty' and 'not guilty,' which might cover a complex and more enlarged view of the case, and thus encroach on the functions of the Court. In later times our juries," he says, "have freely made use of the one or the other of those phrases, as they have judged more suitable to the case in hand. Not uncommonly the phrase 'not proven' has been employed to mark a deficiency only of lawful evidence to convict the panel, and that of 'not guilty' to convey the jury's opinion of his innocence." And Alison & Bell say that "not proven" imports, that in the opinion of the jury there is a deficiency of evidence to convict.

But this leaves the question open whether the verdict of "not proven" is a bar to any future prosecution for the same offence. It undoubtedly appears to follow, from the view of Baron Hume, that it is so, as also from the general principle of Scotch law, that no one can be tried again who has "*tholed* an assize," which means, been in jeopardy of life. But one has to collect this inferentially; and it is not stated, as one would expect it to be, clearly and explicitly. Baron Hume speaks in several places of a verdict of "not proven" as a verdict of "not guilty," (p. 459); as surely it is, in substance; for what have the jury to do with anything but legal proof? So he speaks of only two sentences —of *absolution* or *condemnation;* and in the present case the Court pronounced the former judgment, (as, of course, there could be no other, unless the verdict was "guilty"), and ordered the panel to be "assoilzied."

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LORD CAMPBELL's bill for preventing the sale of obscene books and pictures is printed in another part of our columns. It has been already amended in some material respects, but must, we think, be further amended before it can safely be inrolled among our statutes. As at present framed, its provisions confer very dangerous powers on justices of the peace and police constables. By the 1st section, which involves the objectionable part of the bill, any justice, upon complaint on oath that the complainant has reason to and does believe that any obscene books, &c. are kept in any house, &c. for the purpose of sale or distribution, exhibition, lending upon hire, or being otherwise published &c., upon statement on oath of such facts as shall satisfy the justice that the complainant's belief is well founded, and that such "or other" (?) matters are of such a character and description that the publication of them would be a misdemeanour, and proper to be prosecuted as such, may give authority, by special warrant, to any constable or police officer to enter into such house*, and, if necessary, to use force, by breaking open doors, and to search for and seize all such books, &c. as aforesaid found in such house, and to burn or otherwise to destroy the same. No form of warrant is given by the act; but we apprehend that under this section a police constable may be authorised by warrant to enter a house, and generally "to search for and seize any obscene books, papers, writings, prints, pictures, drawings, or other obscene representations kept therein for the purpose of sale or distribution, exhibition, lending upon hire, or being otherwise published*, and to burn or otherwise destroy the same." If the section is not intended to authorise so general a warrant, its language should be altered, and certainly a form of warrant should be given in the act. If, however, a warrant in such general terms comes within the scope and intent of the framers of this bill, and the articles to be seized are not to be more accurately defined, it will vest in a police constable a very wide discretion as to his right of capture; but what is still more objectionable, he will at the same time be empowered to destroy the things which he has seized, and thus, on his own mere opinion, to inflict irremediable injury, and to deprive the owner of all evidence of illegality or excess. Say that a valuable book, not coming within the meaning of the warrant, has been seized and burnt; the only remedy would be against the police constable, which practically is no remedy at all; and the book being destroyed, he might with comparative safety deny that he had ever taken it. Now, these objections may be obviated by requiring the policeman to take what he has seized to the magistrate, who shall then summon the owner to shew cause why they should not be condemned and destroyed. This would give the owner an opportunity of averting the destruction of his property, and of knowing what had been taken, and at all events would render its destruction the act of the magistrate, from whom some redress might be obtained in the event of illegal or oppressive conduct.

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(*From a Correspondent*).

THE present state of the law relating to the discharge of a surety by the giving of time by the creditor to the principal, when the fact of suretyship does not appear upon the face of the written contract, seems to be unsatisfactory and unsettled. The recent case of *Pooley* v. *Harradine* (3 Jur., N. S., part 1, p. 488) was an action by the payee against one of the makers of a promissory note. The defendant pleaded, by way of equitable defence, that the note was made by him as surety only of one of the other makers; that the note was accepted by the plaintiff on the express agreement between him and the defendant, that the defendant should be liable only as surety; and that the plaintiff afterwards gave time to the principal. Coleridge, J., who delivered the judgment of the Court of Queen's Bench, held that this plea stated a good answer to the action; but he at the same time expressed a hope, in which every lawyer must join, that the whole subject would be reviewed in a court of error. The great point in dispute is, whether any, and if any, then to what extent, parol evidence is admissible to prove a suretyship which is not disclosed by the written contract declared upon; and in the cases which have arisen on the point, much confusion has resulted from an attempt to distinguish between the degrees of favour shewn to a surety by a Court of law and a Court of equity respectively. The principles which seem to govern the question are few and clear, namely—first, that parol evidence cannot be admitted to *vary* the written contract, (this rule, it will be remembered, holds both at law and in equity); secondly, that upon any admitted state of facts, the rights and liabilities of a surety, so far as regards his discharge by acts of the creditor, are the same both at law and in equity; and, thirdly, that although parol evidence is inadmissible, either at law or in equity, to vary the written contract, yet equity will admit it for the purpose of rectifying the contract, i. e. of proving that the written contract is not the contract which the parties *intended to put into writing*. The first of the above principles is in every case admitted, and yet, strangely enough, many of the cases are inconsistent with it. It is expressly insisted upon in *Pooley* v. *Harradine*, where Coleridge, J., puts the case upon the only sustainable ground, when he says, that, under the circumstances now being considered, the surety must be discharged (if he be discharged at all) by virtue of an equity not arising out of the contract, but independent of the contract; or, in other words, by reason simply of its being *unfair* that the creditor should be allowed to enforce his rights under the contract against the surety, when, knowing (no matter from what source) the position of the surety, he has, by giving time to the principal, wilfully deprived the surety of his remedy over against that principal. It follows necessarily, if the above doctrine be sound, that it is immaterial to the question at what time, whether at the time of the contract being entered into or subsequently, the knowledge of the suretyship is acquired by the creditor; the unfairness of the creditor's act must be judged of with regard to his knowledge when he committed that act. Some persons may have difficulty in understanding how the rights *under a contract* can be affected by any acts done which are not contrary to the good faith *of that contract;* still, the doctrine has undoubtedly much to be said in its favour, and it seems to be the only sustainable ground upon which parol evidence can be brought to the relief of the surety, except in the few cases in which the third principle above enunciated is applicable. The Court of Queen's Bench are now, (as appears from the judgment in *Pooley* v. *Harradine*), and so also, it seems, are the Lords Justices, (vide *Stainbank* v. *Davies*, as cited and commented on in *Pooley* v. *Harradine*), prepared to carry the above doctrine to its full extent; but in so doing they must disregard *Manley* v. *Boycot*, (2 El. & Bl. 46), (which was not cited in *Pooley* v. *Harradine*); *Strong* v. *Foster*, (17 C. B. 201); and (it is submitted, notwithstanding the remarks of Coleridge, J., to the contrary) *Hollier* v. *Eyre*, (9 Cl. & Fin. 1); in the first two of which cases it is distinctly laid down, and in the last of which it seems to be implied, that in order to discharge the surety, it must be shewn that the fact of suretyship was known to the creditor *at the time the written contract was entered into;* and moreover, that the creditor *agreed* to accept the surety as surety, and not as principal. This seems very like admitting evidence to vary the written contract, and surely cannot be sustained. It is true, that in *Pooley* v. *Harradine* it was declared to be immaterial, with reference to the plea there adjudicated on, to decide whether it is essential that the relationship of principal and surety should be known to the creditor *at the time of the entering into the written contract;* but it is submitted that that cannot be essential, except for the purpose of *importing into the contract* something more than is expressed in the writing.

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* The phraseology adopted, notwithstanding the improved language of modern statutes and pleadings, is after the old latin form—" into such house, &c. to enter."

* We presume the warrant need not contain the other words of the section, "and of such a character and description that the publication thereof would be a misdemeanour, and proper to be prosecuted as such."

There is, however, a very serious practical objection to the doctrine propounded in *Pooley* v. *Harradine*. It frequently happens, as suggested in that case, that a contract such as that declared upon is entered into, and that the fact of one of the parties being a surety is known to all the parties, and yet that none of them have any intention that the creditor should be in any way affected by that knowledge; and in such cases it is hard to allow the surety afterwards to assert, as a defence to an action on the contract, an equity (falsely so called) which at the time of the making of the contract was never intended to be set up. If a party to a contract wishes to rely on his privileges as a surety, it is very easy for him to express as much on the face of the contract; and on the whole the interests of justice would, it is apprehended, be best served by the laying down of the distinct rule, (in equity as well as at law), that unless a party chooses to stipulate in the written contract for the privileges of a surety, those privileges will not, in an action on that contract, be accorded to him. Such a rule would in no way affect the power exercised by a Court of equity to rectify the contract.

H. C. P.

SYNOPSIS OF CROWN CASES.

(*Concluded from p.* 280).

Foreigners—High Seas.]—Where one foreigner inflicts an injury upon another foreigner on board a foreign vessel on the high seas, and the latter afterwards dies of the injury in this country, no offence cognisable by the laws of this country has been committed. (*Reg.* v. *Lewis*, 3 Jur., N. S., part 1, p. 523).

Forgery.]—Upon certain proceedings before justices against a pawnbroker, he delivered to the justices, through the hands of his attorney, a forged duplicate of goods that had been pledged with him. This was held to be an uttering by the pawnbroker. It was also held that the duplicate was "an accountable receipt" within stat. 11 Geo. 4 & 1 Will. 4, c. 66, s. 10. (*Reg.* v. *Fitchie*, 3 Jur., N. S., part 1, p. 419).

Larceny.]—In *Reg.* v. *Wilson* (3 Jur., N. S., part 1, p. 167) the prisoner was convicted of stealing certain articles of dress. He had sold them openly at a public-house shortly after they were stolen. When apprehended he stated that C. and D. had brought the goods to his house, and that W. would say so, and that being on the spree he had sold them and spent the money. C. and D. were apprehended, and C. convicted of stealing other goods at the same time and from the same place. Neither C., D., nor W. was called at the trial to negative the prisoner's statement. The Court affirmed the conviction, upon the ground that there was some evidence upon which the jury might convict. Pollock, C. B., however, said, "I should be sorry that upon such evidence any prisoner should be convicted before me."

Upon the trial of an indictment for larceny as a servant, there was abundant evidence of embezzlement, but none of larceny. It was held, that although, under the 14 & 15 Vict. c. 100, s. 13, the prisoner might have been convicted of the embezzlement, yet a conviction against him for the larceny was wrong. (*Reg.* v. *Gorbutt*, 3 Jur., N. S., part 1, p. 371).

The prisoner agreed with the wife of the prosecutor that they should go away and live in adultery; they accordingly left the prosecutor's house, but were overtaken on the road in company together, the prisoner carrying a bandbox containing articles of the wife's wearing apparel. The Court quashed a conviction for larceny of the husband's goods. (*Reg.* v. *Fitch*, 3 Jur., N. S., part 1, p. 524).

T. J., the owner of a watch, had placed it with the seller for a specific purpose. By the fraud of the prisoner he was induced to believe that T. J. had desired him to send it by post to the postmaster at B., inclosed in a letter addressed to T. J. The postmaster, also induced by the fraud of the prisoner, delivered the watch to him, believing him to be T. J. or his agent, and he then appropriated it to his own use:—Held, that this was larceny of the watch from the owner. (*Reg.* v. *Kay*, 3 Jur., N. S., part 1, p. 546).

Nuisance.]—To deposit and keep in a warehouse, situate in a populous district, large and excessive quantities of "wood naphtha," is a nuisance at common law, although the greatest care may be used in the warehouse to prevent ignition. (*Reg.* v. *Lister*, 3 Jur., N. S., part 1, p. 570).

Perjury.]—A question as to what is sufficient to constitute a residence within the meaning of the Bastardy Act, 7 & 8 Vict. c. 101, so as to give justices jurisdiction to grant an affiliation summons, arose in the case of *Reg.* v. *Hughes*, (3 Jur., N. S., part 1, p. 448). The facts were as follows:—The mother of a bastard child, who had been residing with her parents in one petty sessional division, went into another division (D.) for the purpose of affiliating her child, D. being nearer than the place where the magistrates for the other division resided. She lodged at D. three weeks, and after obtaining the order went into service in the division in which her parents resided, but did not return to them. She had stated that she could not go back to her parents, but that she meant to leave D. directly the order was made; and she did, in fact, leave the next day. The Court held that she was residing within the division to which she had applied; the magistrates, therefore, had jurisdiction, and a conviction for perjury upon the affiliation summons was right.

Practice.]—Bank notes are properly described in an indictment for larceny as "money," although at the time they were stolen they were not in circulation, but were in the hands of the bankers themselves. (*Reg.* v. *West*, 2 Jur., N. S., part 1, p. 1123).

In *Reg.* v. *Green* (2 Jur., N. S., part 1, p. 1146) the prisoner was indicted for larceny of the goods of R. B.; it appearing, however, in evidence that J. B., and not R. B., was the owner of the goods, the indictment was not amended, but an acquittal was directed. She was then charged upon another indictment, in which the goods were laid as the property of J. B.:—Held, that a plea of autrefois acquit to this second indictment could not be sustained.

Removal of Corpse.]—It is a misdemeanour at common law to remove a corpse which has been buried in ground belonging to a congregation of Protestant Dissenters, although the act may have been done from motives of filial affection and religious duty. (*Reg.* v. *Sharpe*, 3 Jur., N. S., part 1, p. 192).

BILL IN PROGRESS.

A BILL

[AS AMENDED IN COMMITTEE]

For more effectually preventing the Sale of Obscene Books, Pictures, Prints, and other Articles.

Whereas it is expedient to give additional powers for the suppression of the trade in obscene books, prints, drawings, and other obscene articles: be it enacted &c. as follows:—

Sect. 1. It shall be lawful for any justice of the peace, upon complaint made before him upon oath that the complainant has reason to believe, and does believe, that any obscene books, papers, writings, prints, pictures, drawings, or other representations are kept in any house, shop, room, or other place, for the purpose of sale or distribution, exhibition, lending upon hire, or being otherwise published, and shall also state upon oath such facts as shall satisfy such justice that the belief of the said complainant is well founded, and that such or other matters are of such a character and description that the publication of them would be a misdemeanour, and proper to be prosecuted as such, to give authority by special warrant to any constable or police officer into such house, shop, room, or other place to enter, with such assistance as may be necessary, and, if necessary, to use force, by breaking open doors or otherwise, and to search for and seize all such books, papers, writings, prints, pictures, drawings, or other representations, matters, or things as aforesaid found in such house, shop, room, or other place, and to burn or otherwise destroy the same.

2. No plaintiff shall recover in any action for any irregularity, trespass, or other wrongful proceeding made or committed in the execution of this act, or in, under, or by virtue of any authority hereby given, if tender of sufficient amends shall have been made by or on behalf of the party who shall have committed such irregularity, trespass, or other wrongful proceeding before such action brought; and in case no tender shall have been made, it shall be lawful for the defendant in any such action, by leave of the court where such action shall depend, at any time before issue joined, to pay into court such sum of money as he shall think fit, whereupon such proceeding, order, and adjudication shall be had and made in and by such court as in other actions where defendants are allowed to pay money into court.

3. No action, suit, or information, or any other proceeding, of what nature soever, shall be brought against any person for anything done or omitted to be done in pursuance of this act, or in the execution of the authorities under this act, unless notice in writing shall be given by the party intending to prosecute such suit, information, or other proceeding, to the intended defendant one calendar month at least before prosecuting the same, nor unless such action, suit, information, or other proceeding shall be brought or commenced within three calendar months next after the act or omission complained of, or in case there shall be a continuation of damage, then within three calendar months next after the doing such damage shall have ceased.

The Queen has been pleased to direct letters patent to be passed under the Great Seal, granting the dignity of a Knight of the United Kingdom of Great Britain and Ireland unto William Foster Stawell, Esq., Chief Justice of the colony of Victoria.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed Thomas Andrews, Gent., of Bagshot, Surrey, to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, in and for the county of Surrey.

To be granted, unless an Appeal be duly entered.

Henry Bateson, Hadden-place, Waterloo-road, apothecary. —*Peter Steffano*, Wellclose-square, Middlesex, and Cardiff, Glamorganshire, ship chandler.—*Joseph Bruce*, Yarmouth, Isle of Wight, grocer.—*Thomas Harrison*, Chancery-lane, Middlesex, and West End, Esher, Surrey, tailor.—*C. Hall*, Sun-court, Cornhill, East India merchant.—*Wm. Bailey* the younger, Buttesland-street, Hoxton, carver.—*T. Richards*, Aberystwith, Cardiganshire, draper.—*Gustav Hasse*, Railway-place, Fenchurch-street, merchant.—*George Moore*, Shardlow, Derbyshire, innkeeper.—*Henry Wheeler*, Derby, painter. —*David Cheetham*, Rochdale, cotton spinner.—*A. Hinton*, Birmingham, druggist.—*G. A. Hewitt*, Derby, chemist.

PETITION ANNULLED.

John Godfrey, Taunton, Somersetshire, coachmaker.

PARTNERSHIPS DISSOLVED.

John Rees Mogg, *Wm. Rees Mogg*, and *Edward H. Perrin*, Temple Cloud, Somersetshire, attornies-at-law, solicitors, and conveyancers.—*Geo. P. Nicholson* and *R. B. M. Lingard*, Wath-upon-Dearne, Yorkshire, attornies-at-law and solicitors.

SCOTCH SEQUESTRATIONS.

John M'Donald, Whiteinch, near Patrick, wine merchant. —*O'Halloran & Brown*, Glasgow, shipbrokers.—*Third, Adams, & Co.*, Glasgow, warehousemen.—*Alexander Graham Burns*, Glasgow, wine merchant.

TUESDAY, *July* 14.

BANKRUPTS.

EDWARD DAVIES, Harrow-road, Paddington, Italian warehouseman, July 23 at half-past 2, and Aug. 27 at half-past 12, London: Off. Ass. Cannan; Sol. Carpenter, 3, Elm-court, Temple.—Pet. f. July 10.

CHARLES DUVALL, Crosby-row, Walworth-road, Surrey, and Queen's-buildings, Knightsbridge, Middlesex, provision merchant, July 23 at half-past 1, and Aug. 27 at 1, London: Off. Ass. Whitmore; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. July 14.

JOSEPH PIPER, High-street, and Spencer-street, Shoreditch, furnishing ironmonger, July 25 at 11, and Aug. 27 at 1, London: Off. Ass. Cannan; Sol. Chidley, 10, Basinghall-street, London.—Pet. f. July 10.

STAFFORD MOORE LANE, Swallowcliffe, Wiltshire, corn dealer, July 30 at half-past 12, and Aug. 27 at half-past 1, London: Off. Ass. Whitmore; Sol. Colombine, 79, Basinghall-street.—Pet. f. July 13.

THOMAS BURNHAM CLARK, Minories, licensed victualler, July 29 and Aug. 31 at 12, London: Off. Ass. Nicholson; Sol. Ashley, 5, Charles-square, Hoxton.—Pet. f. June 27.

DAVID JOHNS, Cardiff, Glamorganshire, draper, July 27 and Aug. 18 at 11, Bristol: Off. Ass. Miller; Sols. Bird, Cardiff; Bevan & Girling, Bristol.—Pet. f. July 11.

JAMES CLARK, St. Thomas the Apostle, Devonshire, tea dealer, July 22 and Aug. 18 at 11, Exeter: Off. Ass. Hirtzel; Sol. Floud, Exeter.—Pet. f. July 13.

THOMAS WATSON, late of Goldsbrough, Lythe, now of Whitby, Yorkshire, shipowner, July 30 and Aug. 24 at 11, Leeds: Off. Ass. Young; Sols. Buchannan & Gray, Whitby; Bond & Barwick, Leeds.—Pet. d. July 2; f. July 3.

EDWIN WATERHOUSE, Dewsbury, Yorkshire, carpet manufacturer, July 27 and Aug. 24 at 12, Leeds: Off. Ass. Hope; Sols. Chadwick, Dewsbury; Bond & Barwick, Leeds. —Pet. d. July 13.

JOHN WRAGG the elder, Sheffield, cutlery manufacturer, July 25 and Aug. 29 at 10, Sheffield: Off. Ass. Brewin; Sol. Fretson, Sheffield.—Pet. d. July 6; f. July 7.

WILLIAM JOPLING, Wolsingham, Durham, linendraper, July 28 and Aug. 28 at 11, Newcastle-upon-Tyne: Off. Ass. Baker; Sol. Brignal, Durham.—Pet. f. July 10.

MEETINGS.

Wm. Reay, Birmingham, corn dealer, Aug. 1 at 11, Birmingham, last ex.—*Alfred Ellis*, Wimborne, Dorsetshire, wine merchant, Aug. 4 at 1, London, aud. ac.—*John Emmerson*, High-street, Poplar, Middlesex, and Plaistow, Essex, licensed victualler, July 24 at half-past 12, London, aud. ac. —*Henry Hall* and *Chesleyn Hall*, New Boswell-court, Lincoln's-inn, and Neasdon, Middlesex, cattle dealers, July 24 at half-past 1, London, aud. ac.—*Sagar Holden Splatt*, Liverpool, sailmaker, July 24 at 11, Liverpool, aud. ac.—*Joseph Whitehouse*, West Bromwich, and *William Jeffries*, Compton, Kinver, Staffordshire, ironmasters, Aug. 3 at 10, Birmingham, aud. ac.—*John Howard Blackwell*, Smethwick, and *George Bennet*, Wombourn, Staffordshire, ironmasters, July 27 at 10, Birmingham, aud. ac.—*Francis Scaife*, Sheffield, cutlery manufacturer, July 25 at 10, Sheffield, aud. ac. —*Aaron Marks* and *Nahum Salamon*, Sheffield, merchants, July 25 at 10, Sheffield, aud. ac.—*John Vallance Bellamy*, Sheffield, wine merchant, July 25 at 10, Sheffield, aud. ac.—*John Shaw* and *Joseph Shaw*, Sheffield, tailors, July 25 at 10, Sheffield, aud. ac.—*Henry Harrison*, Sheffield, tailor, July 25 at 10, Sheffield, aud. ac.—*Charles Hammond Thompson*, Conisbrough, Yorkshire, common brewer, July 25 at 10, Sheffield, aud. ac.—*Richard Winter Neave*, Market Rasen, Lincolnshire, and Sheffield, Yorkshire, miller and flour dealer, Aug. 12 at 12, Kingston-upon-Hull, aud. ac. and div.—*Joseph Sankey*, Salford, Lancashire, wheelwright, July 29 at 12, Manchester, aud. ac.; Aug. 5 at 12, div.—*James Steen Harvey*, Birmingham, grocer, July 31 at half-past 11, Birmingham, div.—*Thos. Henry Tripney*, Perranporth, Cornwall, woollen-draper, Aug. 6 at 1, Exeter, div.—*Richard Lear Mugford*, Torquay, Devonshire, tailor, Aug. 6 at 1, Exeter, div.—*Thos. Laidler*, Jarrow, Durham, coke burner, Aug. 6 at 1, Newcastle-upon-Tyne, div.—*Wm. Ridley Carr* and *Henry Fred. Scott*, Wallsend, Northumberland, iron manufacturers, Aug. 6 at half-past 11, Newcastle-upon-Tyne, div.—*James Turner*, Newcastle-upon-Tyne, oil merchant, Aug. 5 at 11, Newcastle-upon-Tyne, second and fin. div.—*John Cowan*, Newcastle-upon-Tyne, cheesemonger, Aug. 7 at half-past 12, Newcastle-upon-Tyne, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Benjamin Smith, Whitechapel-road, licensed victualler, Aug. 4 at 12, London.—*Robert Taylor*, Sunderland, draper, Aug. 5 at 12, Newcastle-upon-Tyne.—*Henry Noell*, Hayle, Phillack, Cornwall, accountant, Aug. 6 at 1, Exeter.—*Wm. Burt*, St. Stephen's by Launceston, Cornwall, builder, Aug. 6 at 1, Exeter.—*Joseph Key*, Crowle, Lincolnshire, ironmonger, Aug. 12 at 12, Kingston-upon-Hull.—*Charles William Hill*, Birmingham, anvil maker, Aug. 7 at 10, Birmingham.

To be granted, unless an appeal be duly entered.

Thomas Ridley, Hartlepool, Durham, draper.—*W. Swinton Laurie*, Liverpool, merchant.—*Thomas Evans*, Newtown, Montgomeryshire, flannel manufacturer.—*Jonathan Wright*, Burnley, Lancashire, shoemaker.—*Thomas Henry Griffiths*, Lowes-moor, Worcestershire, coal dealer.—*Thomas Bradley*, Kidderminster, Worcestershire, apothecary.—*S. Starmer*, Wolverhampton, Staffordshire, shoe manufacturer.

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GAZETTES.—Friday, *July* 17.

Bankrupts.

WILLIAM GIRLING BALLS, Islington-green, tailor, July 30 at 11, and Aug. 27 at half-past 1, London: Off. Ass. Cannan; Sols. Messrs. Harrison, 5, Walbrook.—Pet. f. June 17.

HENRY SPILLER, St. John's-wood-terrace, Regent's-park, brick merchant, July 29 at 11, and Aug. 24 at half-past 11, London: Off. Ass. Pennell; Sols. King & George, 35, King-street, Cheapside.—Pet. f. July 13.

EDWARD BARONS BOWMAN, Archerfield House, Highbury New Park, Islington, and Alma-villas, Dalston, Middlesex, apothecary, (carrying on business with Lewis Robert Raymond, under the style or firm of Bowman & Raymond), July 29 at 2, and Aug. 31 at half-past 1, London: Off. Ass. Nicholson; Sol. Digby, 1, Circus-place, Finsbury-circus.—Pet. f. July 7.

PHILADELPHIA BRAVERY, Brighton, Sussex, furniture broker, July 28 at 11, and Aug. 24 at 2, London: Off. Ass. Nicholson; Sol. Taylor, 15, South-street, Finsbury-square.—Pet. f. July 9.

JOHN WALTER GRAY, Bishops Waltham, Southampton, commission agent, July 29 and Aug. 31 at 1, London: Off. Ass. Nicholson; Sols. Way, Portsea, Hampshire; Watson & Sons, 12, Bouverie-street, Fleet-street, London.—Pet. f. July 13.

CHARLES RUST, Surrey-place, Old Kent-road, Surrey, cheesemonger, July 28 at 12, and Aug. 31 at half-past 2, London: Off. Ass. Nicholson; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. July 15.

STEPHEN ROWLEY, Cambridge, fellmonger, July 29 at 12, and Aug. 31 at 2, London: Off. Ass. Pennell; Sols. Sole & Co., 68, Aldermanbury.—Pet. f. July 16.

JOSEPH NELSON, Chapel-place, Oxford-st., auctioneer, Fenchurch-street, City, wine merchant, and Stratheden-terrace, New-road, Hammersmith, out of business, July 28 at 12, and Aug. 31 at half-past 12, London: Off. Ass. Pennell; Sol. Chidley, 10, Basinghall-street.—Pet. f. July 14.

RALPH WHARTON, Nottingham, machine maker, Aug. 4 and Sept. 8 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. July 15.

WILLIAM LAKE, Topsham, Devonshire, maltster, July 30 and Aug. 18 at 11, Exeter: Off. Ass. Hirtzel; Sol. Fryer, Exeter.—Pet. f. July 16.

WILLIAM HERON, Huddersfield, Yorkshire, cloth merchant, July 31 and Aug. 25 at 11, Leeds: Off. Ass. Young; Sols. Upton & Yewdall, Leeds.—Pet. d. and f. July 7.

Meetings.

John Baron Billham, Wakefield, manufacturer, July 30 at 11, Leeds, ch. ass.—*Wm. Squires*, Oxford-street, July 27 at half-past 1, London, last ex.—*Thomas Harrison*, Harrietsham and Maidstone, Kent, coal merchant, Aug. 12 at half-past 11, London, last ex.—*W. W. Jones*, Portmadoc, Carnarvonshire, ship builder, July 30 at 11, Liverpool, last ex.—*J. Cruse*, Kintbury, near Hungerford, Berkshire, builder, July 27 at 1, London, aud. ac.—*James Haworth*, Clitheroe, Lancashire, common brewer, July 29 at 12, Manchester, aud. ac.—*Henry Taylor* and *Henry Hoyle*, Vale Mill, near Bacup, and Manchester, cotton spinners, July 28 at 12, Manchester, aud. ac.—*Edward Coultate* and *Thomas Swindells*, Brothers, Manchester, July 29 at 12, Manchester, aud. ac. sep. est. of *Edward Coultate*.—*Robert Atkinson*, Sunderland, draper, July 31 at half-past 11, Newcastle-upon-Tyne, aud ac.—*Robert S. Young*, West Hartlepool, Durham, tea dealer, July 30 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*B. Chadwick*, Liverpool, watchmaker, July 30 at 11, Liverpool, aud. ac.—*R. L. Mugford*, Torquay, Devonshire, tailor, July 30 at 11, Exeter, aud. ac.—*James L. Butter*, Collaton Rawleigh and Woodbury Salterton, Devonshire, brick manufacturer, July 30 at 11, Exeter, aud. ac.—*Thomas H. Tripney*, Perranporth, Cornwall, woollendraper, July 30 at 11, Exeter, aud. ac.—*John G. Thomas*, Illingworth, Halifax, Yorkshire, damask manufacturer, July 30 at 11, Leeds, aud. ac.—*G. H. A. Mertens* and *Thomas Johnson*, Bradford, Yorkshire, dyers, July 30 at 11, Leeds, aud. ac.—*Henry Mertens* and *John Sutcliffe*, Apperley-bridge, Yorkshire, dyers, July 30 at 11, Leeds, aud. ac.—*Wm. O. Tucker*, Threadneedle-street, City, sharebroker, Aug. 7 at half-past 1, London, div.—*John Evans*, Spring Vale Works, Whitefield, Lancashire, bleacher, Aug. 6 at 12, Manchester, aud. ac.; Aug. 13 at 12, div.—*Joshua Fletcher Lace*, Birkenhead, and *Leonard Addison*, Abbott's Grange, Cheshire, printers, Aug. 7 at 11, Liverpool, div. joint est., and div. sep. est. of *Joshua Fletcher Lace*.—*Henry Howgate* and *George Howgate*, Sheffield, steel converters, Aug. 8 at 10, Sheffield, div.—*Barnet Walker*, Sheffield, cabinet maker, Aug. 8 at 10, Sheffield, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Samuel Munday, Gosport, Hampshire, baker, Aug. 7 at 2, London.—*George William Glinister*, Spring-garden-place, and *William Joseph Glinister*, Green-street, Stepney, grocers, Aug. 7 at half-past 11, London.—*John Burgoyne Reed*, Cardiff, Glamorganshire, ship broker, Aug. 18 at 11, Bristol.—*Richard Nattle Clemens*, Liskeard, Cornwall, tailor, Aug. 13 at 11, Exeter.—*George Ellis*, South Brent, Devonshire, miller, Aug. 13 at 11, Exeter.—*John Evans*, Whitefield, Lancashire, bleacher, Aug. 7 at 12, Manchester.—*James Bradshaw*, Burnley, Lancashire, cotton manufacturer, Aug. 14 at 12, Manchester.—*James Peart*, Birmingham, bookseller, Aug. 7 at 10, Birmingham.—*John Best*, Halifax, Yorkshire, linendraper, Aug. 10 at 12, Leeds.

To be granted, unless an appeal be duly entered.

George Gregory, Whitechapel-road, and Church-lane, Whitechapel, baker.—*George Henry Stanley*, Cannon-street-road, St. George's-in-the-East, builder.—*John Killick*, Knightsbridge-terrace, Knightsbridge, silversmith, and Maize-hill, Greenwich, licensed victualler.—*Wm. Button*, Lenesheath, Erith, Kent, builder.—*Evan Lewis*, Cymmer, Llantrissent, Glamorganshire, victualler.—*William Stephens*, Gloucester, cattle salesman.—*Sarah Roach*, Merthyr Tidfil, Glamorganshire, carrier.—*Neptune Seal* and *John Seal*, Denton, Lancashire, and Birmingham, hat manufacturers.—*James Wallwork*, Chorley, Lancashire, cotton spinner.

Scotch Sequestration.

Roderick M'Donald, Edinburgh, wine merchant.

Tuesday, *July* 21.

Bankrupts.

ABRAHAM LOW, Lower Homerton, Middlesex, cattle salesman, July 30 at 2, and Aug. 29 at half-past 11, London: Off. Ass. Cannan; Sol. Yetts, Temple-chambers, Falcon-court, Fleet-street.—Pet. f. July 17.

JAMES JORDAN the younger, Campden-hill, Kensington, builder, Aug. 1 and 29 at 11, London: Off. Ass. Whitmore; Sol. Abrahams, 4, Lincoln's-inn-fields.—Pet. f. July 18.

CHARLES BAKER, Southampton, timber merchant, July 30 at half-past 1, and Aug. 29 at half-past 11, London: Off. Ass. Whitmore; Sol. Westall, 3, South-square, Gray's-inn.—Pet. f. July 17.

ALFRED RUST, Hedge-row, Islington-green, hosier, July 31 at 12, and Aug. 29 at 11, London: Off. Ass. Cannan; Sol. Copping, 7, Coleman-street.—Pet. f. July 20.

LORAN DE WOLF COCHRAN, South-sea House, Threadneedle-street, shipowner, Aug. 3 at half-past 1, and Sept. 7 at 12, London: Off. Ass. Pennell; Sols. J. & J. H. Linklater & Co., 17, Sise-lane.—Pet. f. July 10.

ROBERT FORSTER ALDEN, Norwich, tinman, Aug. 3 at 11, and Sept. 7 at 1, London: Off. Ass. Nicholson; Sols. Gilman & Son, Norwich; Storey, 17, Featherstone-buildings, Holborn.—Pet. f. July 17.

EDWARD COLE EVERITT, East Rudham, Norfolk, plumber, Aug. 4 at 12, and Sept. 7 at half-past 1, London: Off. Ass. Pennell; Sols. Sole & Co., 68, Aldermanbury, London.—Pet. f. July 16.

CHARLES PHILIP BURNETT, Lincoln, tailor, Aug. 12 and Sept. 12, Kingston-upon-Hull: Off. Ass. Carrick; Sol. Chambers, Lincoln.—Pet. d. July 14.

RICHARD DERBYSHIRE, Liverpool, provision merchant, (carrying on business under the firm of Wilson & Derbyshire), July 31 and Aug. 21 at 11, Liverpool: Off. Ass. Turner; Sol. Bardswell, Liverpool.—Pet. f. July 16.

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THE JURIST.

LONDON, JULY 25, 1857.

One of the most important bills now before Parliament is doubtless that of the Attorney-General, for making "better provision for the punishment of frauds committed by trustees, bankers, and other persons intrusted with property."

So far as the proposed bill extends to one class, viz. to bankers, merchants, brokers, attornies, and agents, and especially so far as it relates to such persons as directors or managers of any body corporate or public company, we fully agree with it, as supplying a great and universally acknowledged defect in our laws.

With reference, however, to such part of the bill as deals with another class of persons, we mean trustees, executors, and administrators, we think that the Legislature should at any rate pause before placing them in the same category with the persons comprised in the former class, consisting in general of men who have been specially educated for the business they undertake to perform, and, what is more, who are paid for performing it.

With regard to ordinary trustees, their position is far different: in the great mass of cases they have received no special education to fit them for their duties, often very arduous, and extending over a long series of years, and which frequently they have with great reluctance undertaken.

Another very important consideration is this—that except where there is a particular contract or provision made for that purpose, their duties are purely honorary; and for whatever time and labour they have expended, to their own private loss, in the performance of the trusts, they can claim no remuneration, but simply their costs out of pocket.

In legislating upon so important and delicate a subject, we should take into consideration not merely particular instances where beneficiaries have been defrauded or even ruined by their trustees, (and these cases we believe to be less numerous than they are supposed to be), but we should also consider how often, under our laws—which, to say the least, operate very harshly against persons undertaking the onerous and thankless office of trustees—such persons, without any delinquency on their parts, but merely from being unacquainted with the duties of their office, and with the decisions of the Courts of equity embodied in many hundreds of volumes of reports, are involved in costly litigation, are obliged to pay sums which they have never spent or appropriated to their own purposes, and are by no means rarely utterly ruined.

These risks, to which trustees are liable, make it often a matter of difficulty to get prudent and responsible persons to accept an office which may be visited with such results. Is not the present bill likely to increase those difficulties—at any rate, unless it is accompanied by a measure which will give some compensation to trustees, who, although meaning well, and intending honestly, so far as they are able, to perform their duties, nevertheless fall within some of the numerous pitfalls contrived by the ingenuity of Courts of equity?

Let us briefly examine the bill of the Attorney-General. In the first place, the punishment to which a trustee under the proposed bill may be liable, upon being found guilty of a misdemeanour within its meaning, is, "at the discretion of the Court, to be *kept in penal servitude for the term of three years, or to suffer such other punishment, by imprisonment for not more than two years, with or without hard labour, or by fine, as the Court shall award.*"

It is true, that in order to exclude from the operation of the proposed bill breaches of trust of an ordinary character, it is confined to cases where the trustee "shall, with *intent to defraud*, convert or appropriate" trust property, "or any part thereof, to or for his own use or purposes, or shall, with intent aforesaid, otherwise dispose of or destroy such property, or any part thereof." (Sect. 1). And again: no proceeding or prosecution for any offence included in the 1st section is to be commenced without the sanction of one of the judges of the superior courts of law or equity, or of the Attorney-General, or, if that office be vacant, of the Solicitor-General, such sanction to be obtained upon application by affidavit, or on oath, upon its appearing that there is a *reasonable and probable* cause for proceedings; but in every case the party accused is to have an opportunity of answering the charge, where it can be done with *due regard to the interests of justice.* And it is provided, that where any civil proceeding has been taken against a person under the 1st section, the sanction of the court or judge must be obtained before any prosecution is commenced. (Sect. 12).

Although these various safeguards are provided against proceedings of a malicious character being taken against trustees, still we can conceive many cases in which trustees (and how many of them are not only not men of business, but illiterate and ignorant?) may bring themselves, without any intention of doing wrong, within the operation of the act; and even if the requisite sanction may not be obtained to criminal proceedings being taken against them, they will be subjected to the indignity and scandal which will more or less be attendant upon even an unsuccessful application for the sanction. The Attorney-General's bill has, however, been read a third time by the House of Commons; it has yet to be subjected, we trust, to a more careful examination by the House of Lords.

The defect of the bill has been clearly seen by Lord St. Leonards, whose great experience (perhaps greater than most men now living) in Chancery proceedings has shewn him that such a measure as the Attorney-General's ought, if it should be applied to the further punishment of private trustees, to be accompanied by another for their relief. Lord St. Leonards' bill "has for its object the better protection of trustees, executors, and administrators acting bonâ fide in discharge of their office." It proposes to enact that trustees (in which term we include trustees, executors, or administrators) acting bonâ fide may set off the profit against the loss occasioned by any breach of trust; but as between or amongst the parties beneficially interested the profit and loss are to be distributed as the justice of the case may require. (Sect. 1). Where a trustee has bonâ fide made overpayments of income to a person entitled for life or any less estate, a remainderman, who, being sui juris, knew and did not object to such payments, shall only proceed against the person to whom the overpayment has been made; and in every case of overpayment of income to a person entitled to an estate for life or for any less estate, such person, where the right of the person in remainder has been enforced against the trustee, must indemnify him therefor. (Sect. 2). A trustee is not to be liable for making any payment, or acting under a power of attorney, in ignorance of the death of the party who gave it. (Sect. 3).

With reference to these provisions, they seem to us to be just and proper: for instance, with reference to the 1st section, although it is right that a trustee should derive no profit from his trust, yet in some cases it may be right that he should set off profits against losses. Suppose, for instance, a trustee, holding a sum of 2000*l.*, in breach of trust advanced a portion of it upon a security not authorised by the trust, by which, instead of making about 3*l.* per cent. if invested upon proper security, he made 7*l.* per cent., and in consequence of his not investing the other sum no interest whatever was made by it, if the whole of the two sums belonged to the same person or class of persons, the profits made by the investment of the one sum might very fairly be set off against the loss occasioned by the non-investment of the other sum. If, however, the two funds belonged to different parties, then, it is presumed, the proviso giving a discretion to the Court would be usefully applicable.

The 2nd section appears to carry out rather more fully a principle which is already acted upon pretty extensively by Courts of equity.

The 3rd section adopts the principle of the Code Napoleon, according to which, "Si le mandataire ignore la mort du mandant . . . . Ce qu'il a fait dans cette ignorance est valide."

The 4th section of the bill has for its object the protection of trustees from liabilities in consequence of investments, and it provides, that where a trustee shall, in investing a fund, have bonâ fide acted upon the written opinion of one of her Majesty's counsel actually practising at the Chancery bar, communicated to the parties interested if adult, and to other persons there mentioned, in the case of the parties interested not being adult or sui juris, such trustee is not to be liable as for a breach of trust in respect of such investment. We think, with reference to this section, that if for the words "one of her Majesty's counsel," &c. were substituted the words "one of the conveyancing counsel of the Court of Chancery," this clause, though it has not been favourably commented upon, would be most useful. Again: if a testator shall not have directed an act to be done which in equity ought to be done, a trustee, in the absence of crassa negligentia, and if he has not been required to perform the same, shall not be chargeable for having omitted to do such act, but he is still to be liable for the interest of balances retained in his hands. (Sect. 5).

Then a trustee is not to be liable for omitting to sue for a debt where there was reasonable ground for believing that an action or suit would not have led to the recovery thereof, or of some substantial part thereof. (Sect. 6). Then follows a somewhat similar, though perhaps rather complicated clause, as to bond debts due to a testator or intestate. (Sect. 7).

The next section limits the liability of executors and administrators in respect of rents, covenants, or agreements contained in any lease or agreement for a lease granted or assigned to the testator or intestate. (Sect. 8).

An executor or administrator, after giving such notice as would be given by the Court of Chancery in an administration suit, is not to be liable for distributing the assets, (sect. 9); and any trustee, executor, or administrator may apply to a judge of the Court of Chancery for his opinion, advice, or direction in the management of the trust property.

This is but a very brief summary of Lord St. Leonards' bill. It is, perhaps, too late to expect that this session it will become the law of the land, but we hope that the House of Lords will, in passing the bill of the Attorney-General, strike out those clauses which apply to private trustees. They may well form the subject of a bill for next session, when the whole subject relating to them may be fully and fairly considered. Thus amended, we believe the Attorney-General's bill will pass by acclamation.

◆

AT law the assignee of a term, whether assigns be named in the lease or not, is bound, so long as he continues in possession, to pay the rent and perform such of the covenants comprised in the lease as run with the land. On covenants simply collateral or personal, however, he is never liable, even though assigns be named therein; while there is a small intermediate class of covenants which do not concern things appurtenant to the land and in being at the time of the demise, and which are not therefore real, but are at the same time not merely personal to the lessee, inasmuch as they relate to something to be done upon the land, and of which the assignee would have the benefit, and by these he is obliged only when the lessee has covenanted for his assigns as well as for himself. The liability of the assignee of leasehold property at law is founded upon the privity of estate between the lessor and the assignee of the lessee, which is created by the execution of the deed of assignment; and therefore it is not necessary, in order to raise it, that the assignee should be in the actual possession of the premises, but only that he should have the legal estate, the word "possession" being at law nothing more than a synonym for the possessory right; and directly the assignee parts with the legal estate, the liability ceases, except for breaches of covenant committed during the time of his enjoyment. It has also been established, in spite of some fluctuations of judicial opinion, that a mortgagee who has obtained an assignment of the demised premises, instead of an underlease, is in the same position as an assignee of the ordinary kind, and may therefore be sued upon the covenants in the lease for breaches committed during the continuance of his possession, although the premises may have been all the while occupied by the mortgagor. If, however, he can by any means get quit of his legal interest, he will thereby exonerate himself from all future claims; and to this end, if he cannot induce the lessor to accept a surrender, he will be justified, and not restrained by a Court of equity, in assigning over the lease to a person of no substance, or actually insolvent. (*Onslow* v. *Corrie*, 2 Mad. 330; *Rowley* v. *Adams*, 4 My. & C. 534).

With respect to the liability of an equitable assignee of a lease for years to the covenants in the lease, the decisions have been less harmonious and consistent. The earlier cases have for the most part been overruled or explained away; but it may be worth while shortly to trace the variations of the doctrine upon the subject, in order to shew more clearly what has now been finally settled. In *Lucas* v. *Comerford*, (3 Bro. C. C. 166; 1 Ves. 235; 8 Sim. 499), a suit having been instituted by a lessor for the purpose of compelling the mortgagee of the lease by deposit, who had possessed himself of the premises, and received the rents and profits, specifically to perform a covenant to rebuild, and for further relief, it was decreed by Lord Thurlow that the defendant should take a legal assignment at his own cost; and his Lordship told him, that if he had had a legal assignment he must have been bound by the covenant, and that having an equitable assignment he must be considered in exactly the same light as if he had had a legal assignment. But a difference appears to have been at this time admitted between the cases of a mortgagee in and out of possession; for only two years afterwards, in *Sparkes* v. *Smith*, (2 Vern. 275), where a lessee for years under covenants to repair had assigned the premises to one A., who never entered, the Court dismissed a bill filed by the lessor against the assignee to discover whether the premises were not assigned to him, and to force him to perform the covenants in specie, saying, that although it was the defendant's folly to take an assignment of the whole term, instead of a derivative lease, yet inasmuch as he was only a mortgagee, who never was in possession, they would not assist the plaintiff to charge him, but would leave the plaintiff to recover at law as well as he could. This difference, however, did not very long prevail. It was completely overthrown in *Flight* v. *Bentley*, (7 Sim. 149), in which case it was held that equitable assignees of a lease deposited to secure a debt due to them from the lessee were responsible to the lessor on the covenant for payment of rent, although they had never taken possession of the premises comprised in the lease. A similar judgment upon the question whether possession was or was not material followed soon afterwards in *Jenkins* v. *Portman*, (1 Kee. 435), although there the equitable assignee was not mortgagee, but had purchased the whole interest of the lessee, and caused it to be assigned to a trustee for himself. The rules laid down in these last two cases are said to have excited great alarm and dissatisfaction—not diminished, we should imagine, by the subsequent decision in *Close* v. *Wilberforce*, (1 Beav. 112), which declared that an equitable assignee under an agreement to purchase a leasehold estate, but with an express stipulation that he should not be entitled to a legal assignment, was bound to indemnify the lessee against all damages incurred by reason of breaches of covenant contained in the lease, and subsequent to the date of the agreement. Here, too, although the assignee had been in possession, that fact was not alluded to by the Master of the Rolls, nor did it in any way affect the conclusions to which he arrived. But about this period the mind of the Court underwent an unexpected revolution. In the very next case, of *Moores* v. *Choat*, (8 Sim. 508), in which the circumstances were precisely identical with those in *Flight* v. *Bentley*, it was held that the deposit of a lease by way of equitable mortgage did not render the depositary liable to the lessor upon the covenants to pay rent and repair, or upon any other covenants. Sir L. Shadwell, V. C., is further reported to have said, (p. 523), "I understand the law to be, that if a lessee contracts to sell his lease, and another party contracts to purchase it of him, it would be contrary to the established principles of a Court, either of law or equity, to say that thereupon any right arose to the landlord either to compel a purchaser to take an assignment of the lease, or to compel the purchaser to assign it." But as in this case the mortgagee and his executor, against whom the bill was filed, had merely retained the lease, without entering into possession of the premises, the old theory, that the exemption from the burthen was founded upon the non-enjoyment of the benefit, was for a while presumed to have been revived. Accordingly, in the two following cases of *Wilson* v. *Leonard* (3 Beav. 373) and *Sanders* v. *Benson* (4 Beav. 350) it was decided that the equitable assignee of a lease, or of an underlease, where the underlessee had covenanted to perform the covenants in the original lease, was under an obligation to indemnify his assignor for damages incurred by reason of breaches during the period of his occupation, or pernancy of the rents and profits; which was in effect to determine, and upon that principle the judgment proceeded, that the equitable assignee in possession was liable to the landlord upon the covenants contained in the lease. But in the case of *Moore* v. *Greg*, (2 Ph. 717), where the lessor's bill prayed that it might be declared generally that certain of the defendants, equitable mortgagees by deposit, who had taken possession of the premises, and had actually paid rent to the plaintiff, were bound to pay the rent and perform the covenants, and that the defendants, mortgagor and mortgagees, might be decreed respectively to execute and accept a legal assignment of the premises for the residue of the term, Lord Cottenham considered that there were no grounds for the interposition of the Court. From his Lordship's judgment it appeared plainly enough, that in his opinion not only was a Court of equity not justified in interfering, at the suit of the lessor, to compel a party, whose only connexion with the property was that he had taken a piece of parchment from the lessee as security for a debt, to put himself in a totally different situation from that which he intended, namely, to clothe himself with a legal liability to the covenants by taking an assignment of the lease; but also that where a man has contracted for an assignment of a lease, and is called upon in equity to fulfil the covenants, as he would be bound to do at law if the assignment had been actually executed, even that obligation, if it were one, would at the least be very difficult for the Court to enforce. Moreover, his Lordship clearly laid it down that the possession of the depositary could not operate to his prejudice. If it could, he added, there would be an end of the distinction between an assignment of a lease and an underlease, the recognition of which distinction shewed that the effect of possession depended upon the title under which it was taken, and that mere possession not taken under a title could go for nothing. His Lordship also pointed out that the real question in all these cases was, whether the owner of an estate can or cannot treat a party, who has only an equitable title to the lease derived from the lessee, in the same way as if he had a legal title; and he held, while maintaining the doctrine in *Moores* v. *Choat*, that that case had established that no privity exists between parties in those respective situations. This exposition of the law has since been confirmed and extended in two very recent and important cases, namely, *Walters* v. *The Northern Coal Mining Company* (5 De G., Mac., & G. 629; 2 Jur., N. S., part 1, p. 1) and *Cox* v. *Bishop*, (3 Jur., N. S., part 1, p. 499), which, together with *Moores* v. *Choat* and *Moore* v. *Greg*, may now be said to govern the subject. The details of the first of these cases are very complicated; but from the judgment of the Lord Chancellor we may eliminate the following propositions:—First, the rights of a landlord, against those who occupy his land, are legal rights. Therefore, where land is demised to one person as a trustee for another, the lessor cannot treat the cestui que trust as an equitable debtor for the amount of the rent, notwithstanding that the cestui que trust has assumed all the attributes of lessee; and the case of *Clavering* v. *Westley*, (3 P. Wms. 402), so far as it contradicts this maxim, must not be regarded as an authority. "If," argued his Lordship, "the cestui que trust should, as he certainly might, call on the lessee to assign the legal interest to him, the landlord would have a legal remedy by action against him as assignee. Surely it could not then be contended that the landlord could sue in equity as well as at law; and yet, if before the assignment he had an equitable right against the occupier, how could the occupier destroy that equitable right by an act to which the landlord was no party?" Secondly, if there was a previous contract between the cestui que trust and the landlord, that the latter should grant, and the former or his trustees accept, the lease, the landlord would be entitled to a specific performance of that contract; but if in a case of this sort there could be no decree for a specific performance of an agreement for a lease, there could not be any relief at all in a court of equity. In the case of *Cox* v. *Bishop* the defendants had agreed to purchase and take assignments of the interests of the lessees in certain coal-mines and closes of land, and had entered into possession, and acted as assignees; and the point raised was, whether they had become liable to be sued by the lessor for rent which had accrued due, and for damages for breaches of covenant which had been committed, during their enjoyment. The Lords Justices adopted the principles enunciated by the Lord Chancellor, that neither an equitable assignment alone, nor possession and enjoyment alone, nor both together, could give the landlord a title to relief in equity, and that the liability by reason of occupation, if any, ought to be asserted at law; and they decided, that without special circumstances, such as an impediment to proceeding at law, for the removal of which the assistance of the Court was required, they had no jurisdiction to interfere. Sir G. J. Turner, L. J., further stated, that the same argument was applicable to every kind of assignment, whether by way of mortgage, or otherwise howsoever; and that the difference in the case of a mortgage and of an equitable assignment by other means than a mortgage was not a difference in the relation between the lessor and the assignee, but in the relation between the assignee and the assignor. Finally, his Lordship observed, in corroboration of the Lord Chancellor's remark with reference to an agreement for a lease, that the usual practice in equity was not to decree the payment of the rent and performance of the covenants, but to decree execution of the lease, and to leave the parties to maintain their respective rights under the instrument in a court of common law.

An able article in the *Westminster Review* upon our courts of justice is well worthy of perusal by that wide class to which it appeals, viz. those who have suffered from the inconvenient arrangements and want of proper accommodation while attending English courts of justice, and those who are daily liable to undergo the ordeal. In other words, the whole of the public are interested in the question, and we hope that remedies for such glaring evils will soon be provided. The writer, after doing justice to the claims of judges, counsel, and attornies, thus describes the sufferings of jurors and witnesses:—

"However evil the condition of the courts may be to the three classes—judges, counsel, and attornies—they encounter only that which is deleterious and disagreeable, to a great extent, in the pursuit of profit, and it is impossible to excite much general commiseration for their wants, except on the ground of preserving these important functionaries in full efficiency. But we now come to the classes with whom the public sympathise most, because they are the public themselves—namely, the jurymen and witnesses. Perhaps, as far as mere respect is concerned, the juryman has the advantage of the witness. At least during part of his service the juryman sits in a box, (generally uncushioned), with more opportunities of breathing than is accorded to any one else in court except the judge. A juryman in waiting is, however, treated in the same rude and semi-barbarous way as are witnesses in waiting. Both classes know nothing except that they are waiting; for what purpose, time, or place, they have no instruction. There is no one to direct them to their proper court, or to seats reserved for them, if there were any, or to any place. They are left to wander at large about the court and its purlieus until they are wanted, when of course they are never to be found. Then arises from the officials of the court a fierce cry for 'jurymen in waitin',' accompanied with diapason growls from the judge about 'fines, and keeping the court.' Then the ushers of the court issue in hot haste from it, in what we may well term 'a juryman hunt.' One rushes into the great hall, gazes at its vast emptiness, and proclaims, in a monstrous voice, to the workmen employed there, that 'Jurymen air wanted in the Kim' Pleas.' This is an usher of the old school, attached to precedent, but averse to practical results. Having performed his duty according to ancient custom, he again retires to his little seat, and slumbers as of yore. The other, a younger man, with revolutionary notions of law reform, darts into a Nisi Prius court, where the great Serjeant is making a touching appeal in favour of his client. The usher, not regarding the sentiment of the moment, trumpets forth, in a tone that employs the whole ascending scale from 'do' to 'si,' that 'Jurymen air wanted in the Kimmin Pleas.' Every one's attention is distracted. The Serjeant's grand parenthesis in aggravation of damages is utterly ruined, and the jury soon afterwards give the victim of a 'breach of promise' a verdict of 40*s*. The hunt has been unsuccessful, and the business of the Common Pleas is stopped; but at this crisis it is discovered that the persons required have been all the time sitting in the barristers' seats, totally unaware that they were the persons in whose behalf all this commotion has taken place. They are, of course, immediately ordered into the jury-box, lectured by the judge, and then sworn in, with a savage earnestness that must strike terror into their hearts.

"Jurymen are not the only unfortunate persons summoned to our courts of law in England; there is another class whose convenience, comfort, and feelings are utterly disregarded—we mean the witnesses. Compelled under heavy penalties to attend and speak, they are treated as if they had done something wrong in being in any way connected with the case in which they come to give evidence. There is scarcely a court in the country where any waiting room, refreshment room, or other convenience is provided for them; even at St. George's Hall, Liverpool, where there are rooms for witnesses, all other essential conveniences of a court are wanting, and the waiting rooms themselves are scarcely furnished. In London the treatment of witnesses is little less than barbarous. At Westminster, winter and summer, they must resort to the great hall, without even a seat, or the means of resting themselves. At Guildhall it is the same, unless they consent to be huddled together in one of the avenues of the court, like pigs in a sty. At the Old Bailey the waiting hall is open to the street, and is one of the greatest scenes of abomination in any part of London. There is no separation of classes; the most delicately-bred lady, unless she chooses to pay an extortionate fee to be admitted to a fœtid gallery just over the dock, or can make sufficient interest with some official to obtain a seat near the bench, must consent to wait until she is called, amongst a crowd of vulgar policemen, low women, thieves' friends, and all that peculiar race that criminal trials always call into the light. She cannot escape with her feelings unoffended, and she will be fortunate if her pockets are not rifled. But the Old Bailey is respectable and agreeable when compared to the courts and entrance halls in which the Westminster and Middlesex magistrates enact the mysteries of their sessions. They must be seen to be understood. The pit of a penny theatre in Tothill-fields could scarcely be more crowded, nauseous, and vile than the corridors of the Sessions Court-house at Westminster. At the Old Bailey crimes of the deepest dye and greatest magnitude are tried; in the Westminster court small dishonesties and trivial assaults constitute the chief interest. A man may pass through life without witnessing a murder, or being the victim of a gigantic fraud; but it is extremely improbable that a man of business will be many years occupied in his calling without being called upon to appear against some petty thief for some act of pilfering or embezzlement. The general public are consequently most practically interested in the improvement of the Sessions-house at Westminster and Hicks's Hall at Clerkenwell; yet these court-houses are, almost without exception, the worst in England.

"Witnesses generally consist of three classes—the professional, legal, or police witnesses; the experts; and the ordinary or general witnesses. All demand the sympathy and care of the public, in whose cause they are engaged; but of all, the last class in particular. The first consists of attornies, their clerks, and policemen—persons who know how to make themselves easy everywhere, and who are acquainted with the purlieus of the courts. The second attend generally by their own consent, and are highly paid for their scientific or 'expert' evidence, many of them, indeed, almost making a profession of their knowledge in this behalf, as everybody knows is the case with the principal medical jurisprudists of the country. These gentlemen may be expected to put up with any necessary inconveniences that their calling demands of them. The inconveniences, however, that we complain of here are not cases of necessity. But it is for the last class or general body of the witnesses that improvement in the arrangement of our court-houses is imperatively called for. In general, they attend to give evidence on compulsion, and unwillingly. There is, indeed, a difference amongst ranks in this respect: the upper classes being the most diffident of attendance, from a natural objection to public gaze, and the absence from their usual occupations; the lower classes are more willing, as they look forward to a paid holiday. All, however, are unused to courts, and have an ordeal new and anxious to undergo. They are sent for to speak the truth according to the best of their recollection, that recollection being likely to be confused from the unaccustomed circumstances under which it is called upon for its exercise.

"An uninitiated person would suppose that people so compelled to a duty would be treated with much consideration, and that for the very purpose for which they are called their bodily strength and the even tone of their nervous system would be carefully preserved. No such thing: present by compulsion, a witness is treated as if of no interest to any one; if he were a client, there would be hopes for him from the counsel and the attornies; or if he could present himself as a point of law, he might excite the interest of the judge; for the time, he is scarcely a human being—he has not even the dignity of being a 'step in the cause'—he is less than a document, no profit to the law; there are no fair copies to be made of him; unhappily it is impossible to ingross him, or to stamp him, or to charge for him by the folio; he is only a living thing, to be sworn, examined, cross-examined, re-examined, to be told to stand down, and then to be shuffled off the scene. And so he is neglected; and as a preparation for his important function, he is starved, wearied, crushed, and suffocated; and at length, when thoroughly exhausted, started into the witness-box to recover himself."

Review.

1. *Abridgments of the Specifications relating to Marine Propulsion. Part I.* 12*mo.*, *pp.* 112. [*Great Seal Patent Office.*]

2. *A Synopsis of the Patent Laws of various Countries, comprising the following Heads:*—1. *Law, date, and where recorded.* 2. *Kinds of Patent.* 3. *Previous Examination.* 4. *Duration.* 5. *Government Fees.* 6. *Documents required, and where to be left.* 7. *Working and Extension.* 8. *Assignments.* 9. *Specifications, Inspection and Copies of.* 10. *Lists of Patents delivered.* 11. *Specifications published.* 12. *Originals of Specifications, (Models). By* ALEXANDER TOLHAUSEN, *Ph. D., Sworn Translator at the Imperial Court of Paris.* 12*mo.*, *pp.* 31. [*Taylor & Francis.*)

3. *Look to your Provisional Specifications: a Word of Caution to Patentees and Inventors. By* WILLIAM SPENCE, *Ass. Inst., C. E., &c., Patent Agent. Post* 8*vo.*, *pp.* 31. [*Weale.*]

1. THE Commissioners of Patents have humanely commenced the publication of "Abridgments (in classes, and chronologically arranged) of all Specifications of Patented Inventions, from the earliest inrolled to those published under the Act of 1852." "These books," say the commissioners, "are of 12mo. size, and as each is limited to inventions of one class only, they can be sold at prices sufficiently moderate to enable the humblest inventor to examine for himself whether his drawing has been previously patented or not. At the foot of each abstract is given references to notices of the inventions in scientific and other works, and to the reports of law proceedings for infringement, &c. The classes already published, or in the press, are—

Drain Tiles and Pipes. Price 6*d.*
Manufacture of Iron and Steel. Price 6*d.*
Manure. Price 6*d.*
Sewing and Embroidering. Price 6*d.*
Naval Architecture and Propelling. Part 1, price 1*s.*
Preservation of Food."

Few forms of mental aberration more frequently assume an incurable type than that of euriscomania. Very lately a man insisted on patenting a certain locomotive contrivance, to be drawn by two horses, although the simplest and clearest calculations shewed that his apparatus could not possibly weigh less than thirty tons. But we know no better treatment for milder cases than a cool survey of what has been already done in the same field. When a man who has not yet taken out his patent finds, first, how many great things, far beyond his puny achievement, have been done in the same field, he may take a juster estimate of himself; and when he sees, as in nine cases out of ten he may see, that his idea has occurred from time to time to a dozen men before him, who, often with much more practical knowledge than himself, have tried to make it useful, and have failed, he may be more disposed to listen to the unwelcome advice of judicious friends. This is one great use of these collections. Another, of course, is to facilitate the searches of those who know what they are about, and who, while capable of forming a temperate opinion on the practical value of their inventions, may need assistance in searching for prior claims. For the benefit of all classes of inventors, however, the commissioners would do well to place over their offices, and at the head of all their publications and documents, some pithy warning—like the ominous "limited" of Mr. Lowe's companies. If the obvious quotation from the Inferno is thought too hacknied, we can recommend one which is new and true, and easily remembered—"Invention is the mother of Necessity."

Mr. J. Macgregor (we believe we are right in attributing the abridgment relating to Marine Propulsion to the author of the able work on "The Language of

Specifications") has not spared his labour. In addition to the careful abridgment of specifications, commencing appropriately with Wildgoose's, in 1618, for "divers new, apt, or compendious forms or kinds of engines or instruments, and other profitable inventions, ways and means, to make boats for the carrying of burthens and passengers run upon the water as swift in calms and more safe in storms than boats full-sailed in great winds," he gives, in an introduction and notes displaying considerable research, an account of all the methods of propulsion on water known to be employed by nature, or to have been employed by man from the earliest times. Thus we have several recent patents anticipated in the cuttle-fish, who moves himself backwards by ejecting water from a tube. We give the whole of the compact note on animal propulsion:—

"See Isaiah, ch. xxv, ver. 11.—1. The bodies of animals are propelled by legs, arms, fins, tails, paddles, membranes, or cilia, acting like oars in the water. The tail of a fish propels by oblique pressure on the water, (like the blade of an oar in sculling). The tail of a lobster propels it backwards by a smart direct stroke against the water below. 2. The cuttle-fish is propelled forward by fins, and backwards by ejecting water from a tube. The Paper Nautilus (Argonaut) is also propelled by ejecting water, (and not otherwise by its limbs, acting as oars or sails, as is often alleged). 3. The marine animals Velella (with a flat raft or disklike body) and Physalia ('Portuguese Man-of-War,' with a body like a small sac or bladder) float on the water, and are propelled by the wind acting on their extended membranes. Aquatic birds (such as the swan) extend their feathers so as to sail with the wind. 4. Whelks creep on a muscular disk. 5. Pedipes and Truncatella 'loop' like the 'geometric' caterpillars. 6. Others creep by drawing and pushing. 7. The Mud-fish (Lepidosiren) swims and creeps at once. (See Owen's Lectures on Comparative Anatomy of Invertebrate Animals, London, 1855, 2nd ed., p. 605; Carpenter's Physiology, London, 1854, p. 645)."

"Pancirollus (a professor at Padua in A. D. 1587) mentions that he saw an ancient bas-relief, which represented a galley with three wheels on each side, turned by three pair of oxen." There is other authority for this. "In some very ancient manuscripts extant in the King of France's library, it is said the boats by which the Roman army under Claudius Caudex was transported into Sicily were propelled by wheels moved by oxen. And in many old military treatises the substitution of wheels for oars is mentioned." (P. 5).

The Index of Subject-matter is very complete, and every part of the work bears the mark of conscientious labour.

2. Mr. Tolhausen states that his compilation has been made entirely from authentic documents, most of them official, and contained in the library of the Great Seal Patent Office. We have no means of testing its accuracy, but the work appears to have been prepared with care and discretion.

3. Mr. Spence's pamphlet is a homily on this text from the Patent-law Amendment Act, 1852:—"There shall be left with the petition a statement in writing, hereinafter called 'the provisional specification,' signed by or on behalf of the applicant for letters-patent, *describing the nature of the said invention.*" When it is added that the letters-patent are granted for "the said invention" described in the provisional specification, and for nothing else, the vital importance of clearness of conception on the part of the inventor and his agent, and of accuracy of expression on that of the agent, is made apparent. No decision invalidating a patent on the ground of insufficiency in the provisional specification appears to have been as yet reported. Mr. Spence is right in prognosticating that sooner or later such a decision must be pronounced, scattering terror and dismay among the loose practitioners and their victims. We agree with Mr. Spence that it is a very common mistake to act upon the notion, that "supposing the nature of the invention has not been distinctly characterised by the provisional specification, the patent may be supported by supplying in the final specification what was needed for the purpose." The practice of many patent agents in preparing provisional specifications has been culpably loose, and Mr. Spence has done good service in calling attention to this matter.

REGULA GENERALIS.

ORDER OF COURT.—*July* 18.

The Right Hon. Robert Monsey Lord Cranworth, Lord High Chancellor of Great Britain, by and with the advice and assistance of the Right Hon. Sir John Romilly, Master of the Rolls, the Right Hon. Sir James Lewis Knight Bruce and the Right Hon. Sir George James Turner, the Lords Justices of the Court of Appeal in Chancery, the Hon. the Vice-Chancellor Sir Richard Torin Kindersley, the Hon. the Vice-Chancellor Sir John Stuart, and the Hon. the Vice-Chancellor Sir William Page Wood, doth order and direct as follows:—

1. The Orders of the 11th April, 1842, shall be amended, as to Numbers XI and XII, in manner following, (that is to say):—

XI. If any party or person who is by an order or decree made in any suit or matter ordered to pay money, or to do any other act in a limited time, shall, after due service of such order or decree, refuse or neglect to obey the same according to the exigency thereof, the party or person prosecuting such order or decree shall, at the expiration of the time limited for the performance thereof, be entitled to a writ or writs of attachment against the disobedient party or person; and in case such party or person shall be taken or detained in custody under any such writ of attachment without obeying the same order or decree, then the party or person prosecuting the same order or decree shall, upon the sheriff's return that the party or person has been so taken or detained, be entitled to a commission of sequestration against the estate and effects of the disobedient party or person; and in case the sheriff shall make the return non est inventus to such writ or writs of attachment, the party or person prosecuting such order or decree shall be entitled, at his option, either to a commission of sequestration in the first instance, or otherwise to an order for the serjeant-at-arms, and to such other process as he hath hitherto been entitled to upon a return non est inventus made by the commissioners named in a commission of rebellion issued for the non-performance of an order or decree.

XII. Every order or decree made in any suit or matter, requiring any party or person to do an act thereby ordered, shall state the time, or the time after service of the order or decree, within which the act is to be done; and upon the copy of the order or decree which shall be served upon the party or person required to obey the same, there shall be indorsed a memorandum in the words or to the effect following, viz.:—

"If you, the within-named A. B., neglect to obey this order [*or*, decree] by the time therein limited, you will be liable to be arrested under a writ of attachment issued out of the High Court of Chancery, or by the serjeant-at-arms attending the same court, and also be liable to have your estate sequestered for the purpose of compelling you to obey the same order [*or*, decree]."

2. If it shall appear upon the return of any writ of fieri facias, or any writ of elegit, issued in pursuance of the General Orders of the 10th May, 1839, that the person against whom such writ shall have been so issued is a beneficed clerk, and has no goods or chattels nor any lay fee in the bailiwick of the sheriff to whom such writ shall have been directed, the person to whom the sum of money or costs mentioned in such writ is or are payable shall, immediately after such writ, with such return, shall be filed as of record, be at liberty to sue out one or more writ or writs of fieri facias de bonis ecclesiasticis, or one or more writ or writs of sequestrari facias, in the form stated in the schedule hereto, or as near thereto as the circumstances of the case may allow.

3. On every such writ of fieri facias de bonis ecclesiasticis, or writ of sequestrari facias, so to be issued as aforesaid, there shall be indorsed the words "By the Court," and also thereunder the calling (if any) and place of residence (if any) of the party or person against whom such writ shall be issued, and also the name and residence or place of business of the party or solicitor at whose instance the same shall be issued; and every such writ shall be also indorsed for the sum to be taken or levied, according to the form used upon like writs issuing out of the superior courts of common law.

4. Such writs, when sealed, shall be delivered to the bishop, and shall be executed by him, as nearly as may be, in the same manner in which he doth or ought to execute such like writs issuing out of the superior courts of common law; and such writs, when returned by the bishop, shall be delivered to the parties or solicitors by whom respectively they were sued out, and shall thereupon be filed as of record in the office of the Clerks of Records and Writs of this Court; and for the execution of such writs the bishop or his officers shall not take or be allowed any fees other than such as are or shall be from time to time allowed by lawful authority for the execution of the like writs issuing out of the superior courts of common law.

5. For every such writ so to be issued in pursuance of these Orders, there shall be allowed to the solicitor at whose instance any such writ shall be issued the sum of 6s. 8d. for instructions for the said writ, and the sum of 13s. 4d. for preparing the same, and a fee of 1l. shall be paid by means of a stamp for examining and stamping every such writ at the office of the Clerks of Records and Writs, and there shall be also allowed to such solicitor the further sum of 6s. 8d. for attending to lodge the same at the bishop's registry, and for attending to instruct the officer charged with the execution of such writ.

SCHEDULE.

Forms of Writs.

No. I.—*Fieri Facias de Bonis Ecclesiasticis.*

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to the Right Reverend Father in God, (John), by Divine permission Lord Bishop of ——, greeting. We command you, that of the ecclesiastical goods of C. D., clerk in your diocese, you cause to be made £——, which the said C. D., lately before us in our Court of Chancery, in a certain cause or certain causes [*as the case may be*], wherein A. B. is plaintiff and C. D. is defendant, or in a certain matter there depending, intituled "In the matter of E. F.," [*as the case may be*], by a decree or order [*as the case may be*] of our said Court, bearing date the —— day of ——, was decreed or ordered [*as the case may be*] to be paid by the said C. D. to the said A. B., together with interest on the said sum of £——, at the rate of 4l. per centum per annum from the —— day of ——, and have that money, together with such interest as aforesaid, before us, in our said court, immediately after the execution hereof, to be rendered to the said A. B., for that our sheriff of —— returned to us in our said court on ——, [*or*, at a day now past], that the said C. D. had not any goods or chattels or any lay fee in his bailiwick whereof he could cause to be made the said £—— and interest aforesaid, or any part thereof, and that the said C. D. was a beneficed clerk, (to wit), rector of the rectory [*or*, vicar of the vicarage] and parish church of ——, in the said sheriff's county, and within your diocese [*as in the return*]; and in what manner you shall have executed this our writ make appear to us in our said court immediately after the execution hereof, and have you there then this writ. Witness ourself at Westminster, the —— day of ——, in the year of our Lord ——."

No. II.—*Fieri Facias to the Archbishop, de Bonis Ecclesiasticis, during the Vacancy of a Bishop's See.*

Victoria, [*&c., as in No. I.*], to the Right Reverend Father in God ——, by Divine providence Archbishop of Canterbury, Primate of all England and Metropolitan, greeting. We command you, that of the ecclesiastical goods of C. D., clerk, in the diocese of ——, which is within the province of Canterbury, as ordinary of that church, the episcopal see of —— now being vacant, you cause to be made [*&c.; conclude as in the preceding form.*]

No. III.—*Writ of Sequestrari Facias.*

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to the Right Reverend Father in God (John), by Divine permission Lord Bishop of ——, greeting. Whereas we lately commanded our sheriff of —— that he should omit not by reason of any liberty of his county, but that he should enter the same, and cause to be made [*if after the return to a fieri facias*] or delivered [*if after the return to an elegit, &c., recite the former writ*]. And whereupon our said sheriff of ——, on —— [*or*, at a day past], returned to us in our said Court of Chancery that the said C. D. was a beneficed clerk; that is to say, rector of the rectory [*or*, vicar of the vicarage] and parish church of ——, in the county of ——, and which said rectory and parish church were within your diocese, and that he had not any goods or chattels or any lay fee in his bailiwick [*here follow the words of the sheriff's return*]. Therefore we command you that you enter into the said rectory [*or*, vicarage] and parish church of ——, and take and sequester the same into your possession, and that you hold the same in your possession until you shall have levied the said £—— and interest aforesaid of the rents, tithes, rent-charges in lieu of tithes, oblations, obventions, fruits, issues, and profits thereof, and other ecclesiastical goods in your diocese of and belonging to the said rectory and parish church of ——, and to the said C. D. as rector thereof, to be rendered to the said A. B.; and what you shall do therein make appear to us in our said court immediately after the execution hereof; and have you there then this writ. Witness ourself at Westminster, the —— day of ——, in the year of our Lord ——.

[*Indorse it as a fi. fa. After the words* "expenses of the execution" *add* "and sequestration."]

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THOMAS FLEMING, Liverpool, merchant, July 31 and Aug. 21 at 11, Liverpool: Off. Ass. Bird; Sol. Groocott, Liverpool.—Pet. f. July 15.

HENRY TRISTRAM, Liverpool, broker, July 29 and Aug. 24 at 11, Liverpool: Off. Ass. Casenove; Sols. Lowndes & Co., Liverpool.—Pet. f. July 15.

RICHARD BOWCOCK, Hulme, Manchester, floor-cloth manufacturer, Aug. 5 and 25 at 12, Manchester: Off. Ass. Fraser; Sol. Hardman, Manchester.—Pet. f. July 18.

THOMAS MARSHALL, Hartlepool, Durham, shoemaker, Aug. 5 at 12, and Aug. 27 at half-past 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hodge & Harle, Newcastle-upon-Tyne; Sudlow & Co., Bedford-row, London.—Pet. f. July 18.

MEETINGS.

Joseph Skinner, Great James-street, Bedford-row, auctioneer, Aug. 1 at 11, London, last ex.—*Thomas Rodger*, Attercliffe-cum-Darnall, Yorkshire, grocer, Aug. 8 at 10, Sheffield, last ex.—*Robert James Brown*, Sunderland, Durham, timber merchant, Aug. 3 at half-past 11, Newcastle-upon-Tyne, last ex.; at 12, aud. ac.—*H. W. B. Smallpiece* and *H. Wm. Smallpiece*, Guildford, Surrey, and Aldershot, Hampshire, carriers, Aug. 10 at 11, London, aud. ac.—*Thomas Laidler*, Jarrow, Durham, cokeburner, Aug. 4 at 11, Newcastle-upon-Tyne, aud. ac.—*Wm. R. Carr* and *T. Laidler*, Wallsend, Northumberland, coalowners, Aug. 4 at 12, Newcastle-upon-Tyne, aud. ac.—*Wm. R. Carr* and *H. F. Scott*, Wallsend, Northumberland, iron manufacturers, Aug. 4 at 11, Newcastle-upon-Tyne, and. ac.—*James Craggs Herring* and *William Herring*, West Boldon, Durham, merchants, Aug. 3 at half-past 11, Newcastle-upon-Tyne, aud. ac. sep. est. of *James C. Herring*.—*John M. Cooper*, Sunderland, Durham, shipowner, Aug. 3 at 11, Newcastle-upon-Tyne, aud. ac.—*James Turner*, Newcastle-upon-Tyne, oil merchant, Aug. 4 at 1, Newcastle-upon-Tyne, aud. ac.—*George Woodall*, Carlisle, Cumberland, grocer, Aug. 4 at 12, Newcastle-upon-Tyne, aud. ac.—*James Peart*, Birmingham, bookseller, Aug. 3 at half-past 11, Birmingham, aud. ac.—*Philip Nairn*, Waren Mills, near Belford, Northumberland, miller, Aug. 11 at 12, Newcastle-upon-Tyne, div.—*Wm. Doeg* and *John Skelton*, Newcastle-upon-Tyne, timber merchants, Aug. 11 at 12, Newcastle-upon-Tyne, div. sep. est. of *John Skelton*.—*Edward Dawes*, Wolverhampton, Staffordshire, licensed victualler, Aug. 13 at 12, Birmingham, fin. div.—*Sagar H. Splatt*, Liverpool, sailmaker, Aug. 13 at 11, Liverpool, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Richard Duncan, Lime-street, City, wine merchant, Aug. 11 at half-past 11, London.—*Wm. H. Smith*, Swansea, Glamorganshire, brickmaker, Sept. 8 at 11, Bristol.—*Benjamin Baker*, Cardiff, Glamorganshire, apothecary, Sept. 18 at 11, Bristol.—*Wm. Doeg*, Newcastle-upon-Tyne, timber merchant, Aug. 11 at 11, Newcastle-upon-Tyne.—*Thomas Huntley*, Sunderland, Durham, grocer, Aug. 13 at 11, Newcastle-upon-Tyne.—*George Williamson*, Crosthwaite, Cumberland, woollen manufacturer, Aug. 14 at half-past 11, Newcastle-upon-Tyne.—*Thomas Lawrenson*, Liverpool, shipsmith, Aug. 11 at 12, Liverpool.—*Robert Atkinson*, York, hairdresser, Aug. 11 at 12, Leeds.

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John Cruikshank, Glasgow, auctioneer.—*George Stephen*, Stornoway, Ross-shire.

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GAZETTES.—Friday, *July* 24.

Bankrupts.

SAMUEL MOLYNEUX, Oliver's-yard, City-road, St. Luke, mill sawyer, Aug. 6 at 11, and Sept. 4 at 12, London: Off. Ass. Whitmore; Sol. Fryer, 69, Lincoln's-inn.—Pet. f. July 21.

JOHN WATSON, Upper Bemerton-street, Caledonian-road, Islington, pianoforte manufacturer, Aug. 6 at 11, and Sept. 4 at half-past 12, London: Off. Ass. Cannan; Sol. Blakeley, 63, Lincoln's-inn-fields.—Pet. f. July 22.

WILLIAM PAPINEAU, Harrow Bridge, Stratford, Essex, manufacturing chemist, (trading under the style or firm of Wm. Papineau & Co.), Aug. 5 at 1, and Sept. 7 at 2, London: Off. Ass. Pennell; Sol. Mardon, Christchurch-chambers, 99, Newgate-street.—Pet. f. July 20.

WILLIAM BROWN, Ramsgate, Kent, painter, Aug. 10 at 12, and Sept. 7 at half-past 2, London: Off. Ass. Nicholson; Sols. King & George, 35, King-street, Cheapside.—Pet. f. July 23.

ROBERT WILBY, Prince of Wales-road, Camden-town, licensed victualler, Aug. 5 at 2, and Sept. 7 at half-past 12, London: Off. Ass. Nicholson; Sol. Batt, Dyers' Hall, City.—Pet. f. July 20.

JOHN BRIDGES, Belper, Derbyshire, millwright, Aug. 4 and Sept. 8 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Freeth & Co., Nottingham.—Pet. d. July 13.

SAMUEL WHARTON, Nottingham, ironfounder, Aug. 4 and Sept. 8 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. July 20.

JOHN STEPHENSON BROUGHTON, Kingston-upon-Hull, cooper, Aug. 12 and Sept. 9 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Phillips & Copeman, Kingston-upon-Hull.—Pet. d. July 9.

OWEN ELLIS, Liverpool, marble mason, Aug. 5 and 31 at 11, Liverpool: Off. Ass. Morgan; Sols. Neale & Martin, Liverpool.—Pet. f. July 16.

JOHN WHEELDON, Manchester, packing-case manufacturer, Aug. 4 and 25 at 12, Manchester: Off. Ass. Pott; Sols. Bellhouse & Bond, Manchester.—Pet. f. July 16.

THOMAS MITCHELL, Preston, Lancashire, coal dealer, Aug. 7 and 28 at 12, Manchester: Off. Ass. Hernaman; Sols. Sale & Co., Manchester.—Pet. f. July 10.

Meetings.

James Fell, Liverpool, wholesale tea dealer, Aug. 4 at 11, Liverpool, pr. d.—*John Walker* and *Wm. Walker*, Birkenhead, Cheshire, joiners, Aug. 6 at 11, Liverpool, pr. d.—*John Martin Cooper*, Sunderland, Durham, shipowner, Aug. 3 at 11, Newcastle-upon-Tyne, pr. d.—*W. Owen Tucker*, Threadneedle-street, City, share broker, Aug. 6 at half-past 11, London, aud. ac.—*John Betts*, Bristol, grocer, Aug. 27 at 11, Bristol, aud. ac. and div.—*Philip Nairn*, Waren Mills, near Belford, Northumberland, miller, Aug. 7 at 11, Newcastle-upon-Tyne, aud. ac.—*Joshua Fletcher Lace*, Birkenhead, and *Leonard Addison*, Abbot's Grange, Cheshire, printers, Aug. 3 at 11, Liverpool, aud. ac. joint est., and aud. ac. sep. est. of *Joshua Fletcher Lace*.—*Thomas Fowler Raymond*, Liverpool, shipbroker, Aug. 5 at 11, Liverpool, aud. ac.—*Thomas Law*, Manchester and Salford, flour dealer, Aug. 3 at 12, Manchester, aud. ac.—*James Williamson*, Glasson, Lancashire, innkeeper, Aug. 4 at 12, Manchester, aud. ac.—*Thomas Slater*, Cheetham, and *Joshua Paton*, Broughton, Lancashire, cotton spinners, Aug. 5 at 12, Manchester, aud. ac. sep. est. of *Joshua Paton*.—*Thos. Merrill* and *Charles Benson*, Salford, Lancashire, type founders, Aug. 3 at 12, Manchester, aud. ac.—*Wm. Westmore Cowherd Kirkham*, Manchester, money scrivener, Aug. 4 at 12, Manchester, aud. ac.—*Benjamin Whittaker* and *John Fullalove*, Ancoats, Manchester, manufacturers, Aug. 3 at 12, Manchester, aud. ac. sep. est. of *Benjamin Whittaker*.—*W. Walker*, Manchester, builder, Aug. 4 at 12, Manchester, aud. ac.—*Thomas Marriott*, Nottingham, tailor, Aug. 18 at half-past 10, Nottingham, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Marshall, Reading, coal merchant, Aug. 14 at half-past 1, London.—*John Betts*, Bristol, grocer, Aug. 18 at 1, Bristol.—*Edward Bannister*, Woodsetton, Sedgley, Staffordshire, maltster, Aug. 14 at 10, Birmingham.

To be granted, unless an Appeal be duly entered.

John Figg, Farnham, Surrey, shoemaker.—*James Catt*, High-street, Southwark, Surrey, and Lewisham and Greenwich, Kent, hop merchant.—*James Hunt*, Noel-st., Islington, auctioneer.—*Frederick Thos. Willis*, Whitecross-street, City, oil and colour man.—*George John Humphreys*, Crown-court, Old Broad-street, City, underwriter.—*John Bryan*, Dyers'-buildings, Holborn, electro plater.—*John Audus*, Selby, Yorkshire, potato merchant.—*Samuel Atack*, Leeds, Yorkshire, builder.—*Wm. Bulmer*, Bedale, Yorkshire, grocer.—*George Parker*, Leeds, Yorkshire, grocer.—*Patrick Dennison*, Bradford, Yorkshire, grocer.—*Wm. Peel*, Staincliffe, Yorkshire, blanket manufacturer.

Partnership Dissolved.

Wm. Worship and *Edmund Burnard Squire*, Great Yarmouth, Norfolk, attornies and solicitors.

Scotch Sequestrations.

James Henderson, Dundee, shipowner.—*Heard & Steel*, Larkhall, grocers.—*Alexander Dufton*, Forgue, Aberdeenshire, farmer.—*James Wilkie*, Perth, baker.—*John Dow*, Alloa, draper.

Tuesday, *July* 28.

Bankrupts.

WILLIAM CATER, Ware, Hertfordshire, maltster, Aug. 8 at 11, and Sept. 4 at 12, London: Off. Ass. Cannan; Sols. Wilde & Co., 21, College-hill, City.—Pet. f. July 15.

HENRY CARTER, Worthing, Sussex, tailor, Aug. 7 and Sept. 11 at 1, London: Off. Ass. Whitmore; Sol. Vining, 2, Moorgate-street.—Pet. f. July 20.

ROBERT HENRY OBBARD, Old-street-road, Shoreditch, lead merchant, Aug. 6 at 1, and Sept. 4 at half-past 1, London: Off. Ass. Cannan; Sol. Edmunds, 9, St. Bride's-avenue, Fleet-street.—Pet. f. July 25.

WILLIAM THOMAS SEARLE, Victoria-road, Deptford, builder, Aug. 8 at half-past 11, and Sept. 4 at 2, London: Off. Ass. Whitmore; Sol. Harris, 34A, Moorgate-street.—Pet. f. July 27.

JOHN SEXBY, Vauxhall-walk, Lambeth, builder, Aug. 6 at 12, and Sept. 4 at 1, London: Off. Ass. Whitmore; Sols. Sewell & Co., Gresham House, Old Broad-street.—Pet. f. July 23.

EDWARD LAWSON, Oddy's-row, Islington, draper, Aug. 11 at 1, and Sept. 14 at 1, London: Off. Ass. Pennell; Sols. Ashurst & Co., 6, Old Jewry.—Pet. f. July 25.

THOMAS WARINGTON, New Corn Exchange, Mark-lane, and Mark-lane, City, corn merchant, Aug. 11 at 12, and Sept. 14 at half-past 12, London: Off. Ass. Pennell; Sols. Young & Plews, 29, Mark-lane.—Pet. f. July 27.

RICHARD WHEELER, St. Owen, Herefordshire, miller, Aug. 17 at half-past 11, and Aug. 31 at half-past 10, London: Off. Ass. Whitmore; Sols. Pritchard, Hereford; Suckling, Birmingham.—Pet. d. July 27.

CHARLES LEWTON, Maesteg, Glamorganshire, publican, Aug. 10 and Sept. 14 at 11, Bristol: Off. Ass. Acraman; Sols. Abbott & Lucas, Bristol.—Pet. f. July 27.

JAMES LORD, Millgate, Spotland, Rochdale, Lancashire, cotton spinner, Aug. 8 and 29 at 12, Manchester: Off. Ass. Hernaman; Sols. Holgate & Roberts, Rochdale.—Pet. f. July 25.

THOMAS MARSHALL, Hartlepool, Durham, shoemaker, Aug. 6 (and *not* Aug. 5, as previously advertised) at 12, and Aug. 27 at half-past 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hodge & Harle, Newcastle-upon-Tyne; Sudlow & Co., Bedford-row.—Pet. f. July 18.

DIXON SHARPER, West Hartlepool, Durham, ship chandler. Aug. 6 and Sept. 16 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Forster, Newcastle-upon-Tyne; Turnbull, Hartlepool.—Pet. f. July 21.

Meetings.

Edward Primrose, Sheffield, Yorkshire, ivory dealer, Aug. 8 at 10, Sheffield, ch. ass.—*Elizabeth Hill*, Little Moorfields, City, coach builder, Aug. 7 at half-past 11, London, last ex.—*John Hunter Brown*, Sunderland, rope manufacturer, Aug. 10 at 11, Newcastle-upon-Tyne, last ex.; at 12, aud. ac.—

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THE JURIST.

LONDON, AUGUST 1, 1857.

The Court of Queen's Bench has lately decided an interesting point upon the law of life insurance. (*Wheelton and Others* v. *Hardisty and Others*, Q. B., July 4). Loose dicta, and marginal notes hastily adopted into text-books, had led to an impression that referees are the agents of the party effecting the insurance, so as to bind him by misrepresentations or fraud on their part. Upon principle, it was difficult to understand why persons whose names were merely mentioned as being likely to give information to the office regarding the life insured should be clothed with so extensive an authority, while the hardship and inconvenience were obvious of allowing *confidential* answers, which the party insuring could neither know nor correct, to deprive him or his family of the provision which he had been endeavouring to make, by taking annual sums from his income during his life, or that of the cestui que vie. The Court of Queen's Bench, pressed by these considerations, and the want of real authority against them, have now decided that the referees are not the agents of the party insuring, and also, that if the insurance be on the life of another, the life insured is not the agent of the party insuring. This relation, however, may of course be created between the parties by express contract; but, in the absence thereof, it is not to be raised by implication. The real question in all such cases is, what is the contract between the parties? It should also be observed, that a party employed by another *to effect the insurance*, as a broker to make an insurance on a vessel, stands in a wholly different position from a referee. The facts which gave rise to the decision were shortly these:—The Norwich Union insured the life of Mr. Jodrell with the Westminster. In the proposal they referred to Mr. A. as the usual medical attendant, and to Mr. B. as the intimate friend of Jodrell. Answers were obtained from them relating to his health and habits, and a policy was granted, which did not, in terms, make the answers of the referees or of the life insured a part of the contract. The jury found, in an action on this policy, that the plaintiffs had acted bonâ fide throughout the transaction, but that Jodrell and his referees had made fraudulent representations to the insurance office. In support of the contention that their fraud should avoid the policy, all the cases upon the subject were cited; and to these we propose briefly to call attention, pointing out their main features with reference to the late decision.

The first case is *Fitzherbert* v. *Mather*, (1790), (1 T.R. 12), but that may be disposed of on the short ground that the fraud on the underwriter was practised by a person (Thomas) who had been employed to effect the policy. He was, therefore, clearly the agent of the insurer.

In *Maynard* v. *Rhodes*, (1824), (5 Dowl. & R. 266; better reported in 1 Car. & P. 360), the plaintiff had effected a policy for his own benefit on the life of Colonel Lyon, who, instead of naming his usual medical attendant, referred to a person as such who had only once visited him, and who did not know of a disorder of long standing with which the colonel was afflicted. The policy was held to be void, and this case has been made the foundation of other decisions, and of statements in text-books, that the life insured is the agent of the party insuring, so as to avoid the policy by misrepresentation. When, however, the case is carefully considered, it will be found not to support any such doctrine. The report is scanty, and the policy is not set out, but we may gather from it that a true answer as to the medical attendant was made one of the *conditions* of the policy; and further, that the plaintiff allowed Colonel Lyon to answer as to a matter which the plaintiff himself should have furnished information upon—as a party proposing to effect an insurance is required to name the usual medical attendant of the life to be insured. Thus, at the trial, Abbott, C. J., said, "Though the plaintiff was an annuity creditor of Colonel Lyon, yet *if he allowed* the colonel to make these representations when the policy was effected, he is bound by them;" and afterwards, in banc, Bayley, J., said, "The representation is made *part of the policy*, and therefore the bargain is only *conditional*." (See 1 Car. & P. 362, 303; and this case commented upon in *Everett* v. *Desborough*, 5 Bing. 512, 513).

Morrison v. *Muspratt*, (1827), (4 Bing. 60; 12 Moore, 231), was another case in which the misrepresentation was as to the usual medical attendant. The policy is not set out, and it does not clearly appear from the report that the insurance was effected by one person on the life of another; but at all events the question was one for the party proposing the insurance to answer, and it is consistent with the report that he knew that the party named was not the usual medical attendant. The only point raised in the case appears to have been as to the materiality of the information withheld, and not as to the agency of the party withholding it.

Lindenau v. *Desborough*, (1828), (8 B. & Cr. 586; 3 Car. & P. 353), was an action on one of the Atlas policies. A creditor had insured the life of Duke Frederick of Saxe-Gotha, and the medical man referred to had falsely stated that he was not afflicted with any disorder tending to shorten life. The policy was held to be void, but by its terms (as set out in *Everett* v. *Desborough*, infra) it appears that this question was required to be answered by the party proposing the insurance, and that the answer was made (inter alia) the basis of the policy. It also appears that the plaintiff himself knew of the fact concealed, for we find Lord Tenterden, who presided at the trial, afterwards using this language in banc—"I said I should direct the jury to find for the defendant if they thought the plaintiff had failed to communicate to the insurers any material circumstance *within his knowledge*."

In *Everett* v. *Desborough*, (1829), (5 Bing. 503)—another of the Atlas policies—the plaintiff had insured the life of James House, and had told the agent of the company to make the requisite inquiries, and do all that was proper, as he (the plaintiff) knew nothing of House. A false statement was made to the agent by House as to his medical attendant, "Vicary" being named instead of "Harvey." The paper containing this misrepresentation was shewn to the plaintiff, who said, "I dare say it is all correct;" and on another part of the paper he signed a declaration relating to the health of House. The policy was avoided; but here again the misrepresentation related to a matter upon which the plaintiff himself by the policy was to give information, and the answer (among others) was made the basis of the policy. This case was also decided on the authority of *Maynard* v. *Rhodes*, in which, as we have seen, the truth of the answer was made an express condition in the policy. The marginal note, however, in *Everett* v. *Desborough* is thus broadly stated:—In an insurance on the life of another, the life insured, if applied to for information, is, in giving such information, impliedly the agent of the party insuring, who is bound by his statements, and must suffer if they are false.

Swete v. *Fairlie*, (1833), (6 Car. & P. 1), comes next in order of time, but does not have any material bearing on the question, except for a dictum therein of Lord Denman at Nisi Prius, which was not necessary for the decision of the case.

In *Huckman* v. *Fernie*, (1838), (3 M. & W. 505), a husband insured his wife's life, and *sent* her to the office to answer the questions that might be put. She was not asked as to certain diseases from which she was suffering, and said nothing as to them. The plaintiff had no knowledge of them, and therefore a plea alleging that she had these diseases *to his knowledge*, and he neglected to inform the company of them, was held not to be supported by the evidence. This case decides that the life insured is not the *general* agent of the insurer, so as to affect him by mere concealment. Lord Abinger said—"If she had been sent *to effect the policy*, she would then be the agent of the husband for that purpose, and any concealment by her would be concealment by him, and would have vitiated the policy. . . . She was no otherwise his agent than to answer particular questions; . . . and if they had put to her any question of a kind calculated to elicit a particular fact said to be concealed, it might be questioned then whether or no she was not his agent for that purpose." With reference to the latter part of this dictum, which at most amounts to the expression only of a doubt, it would seem that in this particular case she was the husband's agent to answer such questions as had been sent to him, or should have been answered by him, for printed questions had been put to the husband, and he sent his wife to answer them. (See p. 507). It also appears by the case that her answers were signed or otherwise adopted by him, and his own declaration as to her state of health was made the basis of the policy.

Rawlins v. *Desborough*, (1840), (2 Moo. & R. 328), was an action on another Atlas policy, and also decides that the life insured is not the *general* agent of the insurer, and therefore his non-communication of facts as to which he was not interrogated does not avoid the policy. At p. 334 is a long note upon this subject, written by the late Mr. Frederic Robinson, and therefore, as might be expected, well worthy of perusal.

Such, then, were the decisions which the Court of Queen's Bench was called upon to review, and the result may be again stated in a few words, namely, that in life insurance neither the life insured nor the referees are the agents of the person proposing the insurance, so as to affect the policy by their representations or their concealment, unless he makes them his agents for that purpose, either by his contract or his acts.

THE COPYRIGHT ACTS CONFOOLIDATION BILL, 1857.

Mr. Hansard has printed this as a bill for the *consolidation* of the Law of Copyright. But he is mistaken. The design of the bill, if we can attribute design to anything so incoherent, is to make very wild work of the law in the way of alteration. Its effect will be chiefly to console the promoters of "The Property of Married Women Bill" and "The Wills of British Subjects domiciled Abroad Bill" for the ridicule with which their unlucky attempts upon the character of the statute-book have been received, and it may serve as a foil to the labours of the Statute-law Commission.

Mr. Wilson and the Chancellor of the Exchequer cannot be acquitted of blame for bringing in a bill on so important a subject without first submitting it to the criticism of at least one lawyer of sound mind and average attainments. As, however, the bill enjoys Government sanction, we do not expect our readers to rate it as it deserves, upon our word. They shall judge for themselves. It is intituled "A Bill for consolidating the Laws relating to Copyright in Works of Literature and Art," and recites that "it is expedient that the several acts now in force relating to copyright in works of literature and art, as well as the several acts relating to international copyright, should be consolidated into one act."

"Sect. 1. The several acts and parts of acts set forth in Schedule (A.) to this act annexed are hereby repealed, to the extent to which such acts or parts of acts are by such schedule expressed to be repealed."

The schedule comprises the whole of the existing acts relating to British, colonial, and foreign copyright in literary works, (including lectures and dramatic entertainments), engravings, and sculpture, and the clauses in the Customs Acts relating to the importation of pirated copies.

"2. Provided always, that notwithstanding such repeal of the said acts, every copyright which shall be subsisting at the time of the passing of this act shall continue in force till the expiration of such copyright, and shall be the property of the then proprietor"—[The copyright is to continue in force until it ceases to be in force. The "*then* proprietor" must be either the proprietor at the time the act passed, or the proprietor at the expiration of the copyright. If the former, he seems to have an inalienable property in it]—"and with regard to all offences or injuries committed against any such copyright before this act shall come into operation, every penalty imposed and every remedy given by the said acts in relation to any such offence or injury shall be applicable as if such acts had not been repealed; but with regard to such offences or injuries committed against any such copyright after this act shall come into operation, every penalty imposed and every remedy given by this act in relation to any such offence or injury shall be applicable as if such copyright had been conferred by this act: provided also, that nothing in this act contained shall affect, alter, or vary any right subsisting at the time of passing this act, except as herein expressly enacted; and also contracts, agreements, and obligations made and entered into before the passing of this act shall remain in full force.

"3. All copyright shall be deemed personal property, and be transferable by sale or bequest, and in case of intestacy shall be subject to the same law of distribution as other personal property, and in Scotland shall be deemed to be personal or moveable estate, and shall be vested in the original proprietor or his assigns for the time being, and such assigns shall have all the same rights and privileges attaching thereto as any original proprietor from whom such copyright may have been derived."

The next section, however, provides, in very choice English, that "such assigns" shall *not* have all the same rights and privileges as the original proprietor.

"4. The copyright in the following works of literature and art first published in the British dominions, *and whether the author be a British subject or not, and whether he be resident in the British dominions or not*"—[So much for *Jefferys* v. *Boosey*]—"shall be vested in the parties for the periods hereafter stated in relation thereto respectively:

> "The copyright in books, except books given or bequeathed to the 'universities or colleges,' published in the lifetime of the author, shall be the property of the author or his assigns during the term of the natural life of such author, and for seven years afterwards, or for forty-two years from the date of first publication if the latter be the longest term, unless such copyright shall have been disposed of by the author for any consideration other than natural love and affection for a shorter period, when such copyright shall expire, unless the author"—[Why not his personal representative? No concurrence of the assignee required]—"shall, before the expiration of such shorter period, avail himself of the benefit of this act, for himself or any assignee, by causing a minute thereof, in the Form No. 1 in Schedule (B.) to this act annexed"—[The form is inapplicable]—"to be entered in the book of registry at Stationers' Hall, in which case the copyright shall endure for the remainder of the full term of copyright prescribed by this act, and be the property of himself or his assigns, as in such minute expressed:"

An arrangement frequently made by an author with his publisher is, to assign the copyright to the latter until the first edition or a fixed number of copies is sold off. The bill would cut down the entire copyright to the duration of such first edition or the sale of the limited number of copies. What does this mean? It means that the framer of the bill has found a clause in the Copyright Act of 1842, and has "consolidated" it, as he might consolidate a Geneva watch by hammering it into a deal board. When it was proposed by Lord Mahon's Act to extend the term of copyright from the author's life or twenty-eight years, to seven years beyond the author's life or forty-two years, it was determined to include copyrights then existing in published works; but in order at once to give the benefit to those for whom it was intended, and to withhold it from mere trade assigns, who had never bargained for it, the act judiciously provided, that in case at the passing of the act the copyright of any work was vested in an assignee for value, the extension should not apply to that work without a joint declaration by the author or his representative and the proprietor. This piece of mechanism the framer of the bill has found, and, not understanding, has "spoiled its clicking," as we have seen. The enactment is still important, and has several times within our knowledge been called into operation. But as regards works within its scope, (i. e. those published before July, 1842), the bill repeals it, and provides no substitute. As regards works published after that time, such an enactment is absurd, and is therefore inserted in the bill.

> "The copyright in books, except as aforesaid, first published after the death of the author, shall be the property of the proprietor of the author's manuscript for forty-two years from the first publication thereof:
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> "The copyright in any periodical work, such work, or the volumes, parts, essays, articles, or portions constituting the same, being composed for publication in or as part thereof by any person employed for that purpose by or on account of the publisher, projector, conductor, or proprietor thereof, under any contract vesting the copyright therein in the latter, shall be the property of such publisher, proprietor, conductor, editor, or projector during his natural life and for seven years afterwards, but without the right of publishing in a separate form any essay, article, or portion of the work so composed by any person so employed as aforesaid, which right shall be vested in the author after twenty-eight years from the first publication thereof in such periodical, or earlier if there be any contract, expressed or implied, reserving to the author such right of separate publication before the expiration of such twenty-eight years:"

The clause which this is intended to replace, relating as it does to a difficult subject, is among the worst of the clauses in the ill-drawn act of 1842, and many questions have arisen on it. It is not limited to periodical works. By the bill the copyright is to endure for seven years beyond the natural life of the proprietor. How will this apply to articles in the *Solicitors' Journal*, which belongs to an incorporated company? How will it apply to a common partnership?

> "The copyright in books bequeathed or otherwise given by the author of the same, or his personal representative, to or in trust for the 'universities or colleges,'' shall be vested in the said 'universities or colleges' for the period for which the same shall be bequeathed or given, or if not bequeathed to them for any limited period, so long as such books shall be printed only at their own printing presses within the said universities or colleges respectively, and for their sole benefit and advantage; but the said universities and colleges shall have the right to sell their copyright in books so bequeathed, in which case the copyright shall endure only for the term given by this act to other books:"

The framer of this bill, as we have seen, and shall further see, holds himself in no way bound to respect the existing law, yet he preserves the unjust and impolitic privilege which was given by the stat. 15 Geo. 3, c. 53, omitting the qualification that the gift must be "for the advancement of learning and other beneficial purposes of education."

> "The copyright in any new and original sculpture, model, or cast shall vest in the person who shall first make or cause the same to be made, or his assigns, for the term of fourteen years from the date of publication thereof, and for the further term of fourteen years if such person shall be living at the end of the said first-mentioned term, provided that his name and the date of publication be marked on such sculpture, model, or cast:"

What is a "new and original sculpture, model, or cast?" In the existing acts (38 Geo. 3, c. 71, and 54 Geo. 3, c. 56) some attempt at explanation is made, and particularly a cast, as distinguished from an original design, is shewn to mean a cast from nature.

> "The copyright in any lecture, musical composition, or dramatic piece, not printed or published by the author thereof or his assigns, shall be vested in the author or his assigns, together with the sole right of delivering, representing, or performing, or causing the same to be delivered, represented, or performed, at any place of dramatic or public entertainment in the British dominions, and the sole right of printing and publishing the same, for the term of his natural life, and for seven years afterwards, or for forty-two years from the date of the first delivery, representation, or performance thereof, if the latter be the longer term:
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> Provided, that nothing herein contained shall extend to any lecture, or the printing, copying, or publishing any lecture, or parts thereof, of the delivery of which two days' notice in writing prior to such delivery shall not have been given to two justices living within five miles from the place of delivery, or to any lecture delivered in any university or public school or college, or on any public foundation, or by any individual in virtue of or according to any gift, endowment, or foundation:"

The exclusion of lectures delivered without notice to two justices, being ingeniously levelled at the only case which it cannot hit—that of seditious lectures, delivered without a view to copyright—is copied from the 5 & 6 Will. 4, c. 65. But the existing distinction between unlimited or perpetual copyright in lectures until they have been printed and published with the proprietor's license, and the copyright which, upon lawful publication, commences in them as ordinary literary works, and the distinction between the right to represent a dramatic work and the literary copyright in it, are here consolidated into a jumble, one effect of which would be to make the term of copyright in an unpublished lecture or drama commence from the first delivery or representation; and another would be to make an assignment of a play pass the right to authorise representations of it, (see the 5 & 6 Vict. c. 45, s. 22)—a right which the existing law has properly made inalienable otherwise than by an entry on the registry; so that under the bill a manager, after paying the author for fifty nights' performance, might be made to account for the whole profits to some unregistered and unknown assignee of the right to multiply printed copies of the play.

If a lecturer is so ill-advised as to deliver his lecture in a university or public school or college, he is to forfeit his copyright, the saving of the existing law in the 5th section of the 5 & 6 Will. 4, c. 65, not being repeated.

> "The copyright in any print, map, chart, or plan shall vest in the person who shall have first engraved or procured the same to be engraved, or his assigns, for the term of twenty-eight years, to commence from the first publication thereof, provided his name be engraved on each plate and printed on each print."

What will the Manchester people say to this, which, read in the fog of the interpretation clause, protects their patterns for twenty-eight years? There is, however, no explanation of the word "engraved." The important provision, that the engraving shall bear the date of the first publication, is omitted.

"5. Her Majesty may, by any Order in Council, direct that the author, and his personal representatives, of any books, prints, dramatic pieces, musical compositions, articles of sculpture, and other works of art, to be defined in such Order, which shall, after a future time to be specified in such Order, be first published, produced, performed, or represented in any foreign country to be named in such Order, shall have the privilege of copyright therein, or sole liberty of representation or performance, as the case may be, within the British dominions, for the same period as is granted by this act to the authors of the like productions first published, produced, represented, or performed in the United Kingdom, unless limited to any shorter period by such Order; and her Majesty may, by any further Order or Orders in Council, from time to time revoke, alter, or vary any such Order or Orders, or make any other Order or Orders in relation thereto and in lieu thereof, with similar power to revoke, alter, or vary the same."

The existing International Copyright Acts are to be repealed, saving copyrights existing when the bill passes. After the passing of the bill no work to be first published in France, Belgium, Prussia, &c. will be protected here until the arrival of some "future time," to be specified in some future Order in Council.

"6. The author of any such book or dramatic piece to which the privilege of copyright is by Order in Council extended, and his assigns," [In sect. 5 it is "the author and his personal representatives"], "shall, so long as such Order in Council remains in force, be empowered to prevent the publication, unless with the authority of the author," [Neither assigns nor personal representatives], "of any translation of such book, or the representation of any translation of such dramatic piece, within the British dominions, for any time specified in such Order not exceeding five years from the time at which the authorised translation of such book or dramatic piece, or each part thereof if published in parts, may be first published or publicly represented, and the author or his assigns shall have copyright in such translation during the time so specified; provided that nothing herein contained shall be construed to prevent fair imitations or adaptations to the English stage of any dramatic piece or musical composition published in any foreign country.

"7. Any article of political discussion or otherwise" [Why mention political discussion, then?] "which has been published in any newspaper or periodical in a foreign country to which the privilege of copyright is extended, may, if the source from which the same is taken be acknowledged, be republished or translated in any newspaper or periodical in this country, unless the author has signified his intention of preserving the copyright therein, and the right of translating the same, in some conspicuous part of the newspaper or periodical in which the same was first published, in which case the same shall, without the formalities required by this act, receive the same protection as is thereby extended to books by the provisions relating to international copyright."

What will the *Times* say to this? As the law stands, (15 & 16 Vict. c. 12, s. 7), any article of political discussion published in any newspaper or periodical abroad may be republished here, whether the author signifies his intention to reserve the copyright or not; and it is most important that this should be so. The bill proposes that it should not be so. But the blunder in the late act, of not requiring registration here as a condition of protection to literary works appearing in periodicals abroad, is, of course, repeated.

"8. Registers for the registration of the proprietorship in any copyright, right of representation or performance, permitted by this act to be registered according to Form No. 2 in the Schedule (B.) to this act," [The form will not apply to a right of representation or performance; and there is no permission to register such a right], "and also of any assignment or license affecting the same, according to Form No. 3 in Schedule (B.) to this act, shall be kept at the hall of the Stationers' Company in London by the registrar, and such registers shall, during the official hours of business, be open to the inspection of any person on payment of 1*s.* for each entry searched for or inspected; and the said registrar shall, when required during the official hours of business, give a copy of any entry in such books, certified under his hand and impressed with the stamp of the said company, to be by them provided for such purpose, to any person requiring the same, on payment to the said registrar of the sum of 1*s.*; and any copy of any such entry so certified and impressed shall be received in evidence in all courts and in all summary proceedings, and shall be primâ facie proof of the proprietorship or assignment of copyright, right of representation or performance, or license, as therein expressed, but subject to be rebutted by other evidence.

"9. The author of or proprietor of the copyright in any book or periodical work, or of any dramatic piece or musical composition, whether British or foreign, to which the privilege of copyright extends, and his assigns, may require an entry thereof to be made in the register by presenting to the registrar a request for that purpose according to the Form No. 4 of Schedule (B.) to this act, and on payment to the registrar of the sum of 5*s.* in respect of such book if first published in the British dominions, (except such as are bequeathed or given to the universities and colleges), and of 1*s.* if first published in such foreign country, and of 6*d.* only if registered by the said universities or colleges as their copyright."

The fee for office copies is reduced from 5*s.* to 1*s.* So far good. But the cost of registration is left at 5*s.* for Britons and 1*s.* for foreigners as before, except that the universities are let in to register in formâ pauperis for 6*d.* No registration of copyright in engravings and sculptures. No registration of copyright in an article in a periodical, &c. The existing provisions for registration of right to an unpublished dramatic work (5 & 6 Vict. c. 5, s. 20) are omitted.

"10. In case of any assignment by the registered proprietor of the whole or any portion of his interest in any copyright, right of representation or performance, the assignee, with the consent of such registered proprietor, may require an entry thereof to be made in the register, by presenting to the registrar a request and concurrence in the Form No. 5 of Schedule (B.) to this act, and on payment of the fee of 5*s.* to the registrar; and any entry made in pursuance thereof shall operate as a legal assignment, be free from stamp duty, and have the same force as an assignment by deed."

"In case of any assignment, the assignee may require an entry thereof to be made, and such entry shall operate as an assignment." That is to say, given an assignment, the assignee may cause an entry to be made which shall operate as an assignment. But being already assignee, what does he want with a second assignment?

"11. In order to entitle to the protection of this act the translation of any original work (including articles in any newspaper or periodical, and afterwards published in a separate form) first published in any foreign country to which the privilege of copyright is extended, the author of such original work must cause the same to be registered in manner above prescribed within three months after first publication thereof in such foreign country, and such translation must be so registered within three months after its publication.

"12. If the registrar refuse or neglect to enter in the register any copyright work entitled to registry under this act, or to give any certified copy of any entry therein on demand being made by the person entitled to demand such registry or certified copy, the fee for the same being first tendered to the registrar, he shall forfeit the sum of 20*l.* for each such refusal or neglect." [To whom?]

"13. Every entry made in pursuance of this act of any first publication shall be primâ facie evidence of a rightful first publication, but subject to be rebutted by other evidence; and if any person shall wilfully make or cause to be made any false entry in the register, or shall wilfully produce or cause to be tendered in evidence any paper falsely purporting to be a copy of any entry in the said register, he shall be guilty of an indictable misdemeanour, and shall be punished accordingly.

"14. The publisher of every book published in the British dominions shall deliver or cause to be delivered one printed copy of the whole of the first edition, together with all maps, prints, or other engravings belonging thereto, or of any second or subsequent edition if the first or some preceding edition shall not have been delivered, and of every subsequent edition which shall contain any addition or alteration, the same to be finished and coloured in the same manner as the best copies of the same, whether bound, sewed, or stitched together, shall be published, and upon the best paper on which the same shall be printed, at the several places and withim the times hereinafter mentioned in relation thereto respectively:

At the British Museum, if the first publication, sale, or exposure for sale be within the bills of mortality, within one month thereafter:

If the first publication, sale, or exposure for sale be in any other part of the United Kingdom, within three months thereafter:

If the first publication, sale, or exposure for sale be in any other part of the British dominions, within twelve months thereafter:

At Stationers' Hall for transmission to and deposit at the following libraries, viz. the Bodleian Library at Oxford, the Public Library at Cambridge, the Library of the Faculty of Advocates at Edinburgh, the Library of the College of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, within one month after demand in writing under the hand of the person duly authorised by the said Company of Stationers, or by the librarian of any of the said libraries, to demand and receive the same; provided that such demand shall be left at the place of abode of the publisher of such book within twelve months after its first publication:

If any publisher shall be desirous of delivering the copy of any book so demanded on behalf of any of the said libraries at such library, it shall be lawful for him to deliver the same free of expense at such library to the officer appointed for such purpose, and such delivery shall be held as equivalent to and accepted in lieu of delivery to the aforesaid officer of the Stationers' Company."

The publishers should look to this. If a publisher binds a copy of a new work in morocco or russia, "regardless of expense," and sells it before the Museum and Stationers' Hall are satisfied, he must give five copies as handsomely bound to the public libraries; and he must give copies on the best paper to the universities, as well as to the British Museum.

"15. The author of any book or of any dramatic piece or musical composition, if printed or published in any foreign country to which the privilege of copyright is extended, and of any translation thereof, shall deliver or cause to be delivered to the registrar one copy of the whole, whether in one or more volumes, of every such work, together with all maps and prints relating thereto, one copy of the whole of every second or subsequent edition thereof which shall contain any addition or alterations, and one copy of every print or engraving; and with regard to such translation, shall also deliver to the said registrar one copy of the original work from which such translation is made, with a notification on the title page, or if published in parts on the title page of the first part, or if no title page on some conspicuous part of the work, of his intention to reserve the right of translation; and every such original work intended for translation shall be so delivered within three months after the first publication thereof in the foreign country, and the translation thereof within twelve months afterwards, unless published in parts, in which case each part of such original work shall be delivered within three months after its publication, and the translation of each part within twelve months after delivery of the part of which it is a translation." [The existing provisions for the registration of engravings and sculptures are omitted. The existing law says that the copies received by the registrar are to be deposited in the British Museum. The bill leaves them for the edification of the Stationers' Company.]

"16. All such deliveries as aforesaid shall be made between the hours of ten o'clock in the forenoon and four o'clock in the afternoon of any days except Sundays, and such other days as are at the said places of delivery duly appointed to be observed and kept as public holidays, to the officer duly appointed at such places to receive the same, and which officer shall give receipts in writing for the copies so delivered to him, and be responsible for the due deposit thereof within one month thereafter in the several places for which they are delivered, and such receipts shall be sufficient proof of such delivery.

"17. If any publisher of any such book, or of any second or subsequent edition required by this act to be delivered, shall neglect to deliver the same pursuant to this act, he shall forfeit for every such default, besides the value of such copy of the book or edition which he ought to have delivered, a sum not exceeding 5*l*., to be recovered by the librarian or other officer (properly authorised) of the library for the use whereof such copy should have been delivered, in a summary way, on conviction before two justices of the peace for the county or place where the publisher making default shall reside, or by action of debt or other proceeding of the like nature, at the suit of such librarian or other officer, in any court of record in the United Kingdom, in which action, if the plaintiff shall obtain a verdict, he shall recover the costs reasonably incurred, to be taxed as between attorney and client.

"18. The registered proprietor of the copyright in any book first printed and published in the British dominions, or in any foreign country to which the privilege of copyright is extended, and which shall be registered after the passing of this act, or his agent, may give to the Commissioners of her Majesty's Customs notice in writing of such copyright, such notice to be in the Form No. 6 of Schedule (B.) to this act, and to contain the particulars specified therein, so far as they are applicable, together with a copy of the entry of the registry of such book, duly certified by and under the hand of the registrar, and for which certified copy such registrar shall be entitled to the fee of 1*s*.

"19. The said commissioners shall cause to be made, and publicly exposed at the custom-house of the several ports in the United Kingdom, printed lists of all books of which such notice shall be given to them as aforesaid, and also from time to time deliver to the Board of Trade so many copies of such lists as such board may require, for transmission to her Majesty's possessions abroad, for public exposure there, at such places and in such manner as the Board of Trade may direct: provided always, that at the expiration of forty-two years from the date or publication of any book inserted in the same lists the said commissioners shall cause such book to be struck out of the said lists, unless the proprietor of the copyright shall then give further notice that the author is still alive, or has died within seven years; and if such further notice of the author being alive be not renewed at the expiration of each succeeding twelve months, the book shall be struck off the lists at the end of seven years from the last further notice.

"20. The importation into the British dominions of pirated copies of any book included in the lists prescribed by sect. 19 shall be prohibited, unless imported with the sanction or authority in writing of the proprietor or other person upon whose notice such book shall have been inserted in such lists, and all copies imported contrary hereto shall be forfeited, and may be seized by an officer of customs or inland revenue, and shall become the property of the proprietor, and be delivered to him, if claimed by him within three months after such seizure, on payment of the duty of customs due thereon, and if not so claimed, shall be destroyed; and the importer thereof, if such copy be imported for sale, shall forfeit the penalty of 5*l*. in respect of every pirated copy so imported, to be sued for and recovered by the said proprietor in manner hereinafter prescribed." [But see sect. 22. The stat. 5 & 6 Vict. c. 45, s. 17, says 10*l*., and double the value of every copy so imported.]

"21. If any person shall deem himself aggrieved by any entry made under colour of this act in the said register, or by the insertion of any book in the said lists, it shall be lawful for any judge at chambers, on the application of the person so complaining, to issue a summons calling upon the person upon whose notice such book shall have been entered in the said register, or inserted in the said lists, as the case may be, to appear before such judge, at a time to be appointed in such summons, to shew cause why such entry in the said register should not be expunged or varied, or why such insertion in the said lists should not be expunged; and such judge shall, at the time so appointed, proceed to hear and determine upon the matter of such summons, and make an order therein in writing: provided always, that if such application relate to a wrongful first publication, of which any party has availed himself to obtain an entry in the said register of a spurious work, and it shall appear to such judge, with respect to such wrongful publication, if in a country to which the author or first publisher does not belong, and between which and this country no treaty of international copyright subsists, that the party making the application was the author or first publisher, as the case requires, or with respect to such wrongful first publication, either in the country where a rightful first publication has taken place, or between which and this country a treaty of international copyright does subsist, that a court of competent jurisdiction in any such country where such wrongful first publication has taken place has given judgment in favour of the right of the party claiming to be the author or first publisher, such judge shall make an order for expunging or varying the entry complained of, such order, in any of the foregoing cases, to be made with or without costs, as to such judge shall seem just; and upon service of such order, or a certified copy thereof, upon the said registrar, if the same shall relate to any entry in the said register, or upon the Commissioners of Customs, or their secretary for the time being, if the same shall relate to any insertion in the said lists, the said registrar shall expunge, vary, or confirm the said entry, or the said commissioners shall expunge such book from the said lists, or retain the same therein, according to the tenor of such order; and in case such book shall be expunged from such lists in pursuance of any such order, the prohibition imposed by this act in respect of the importation of such book shall thenceforth cease. If at the time appointed in any such summons the person so summoned shall not appear before such judge, then, upon proof by affidavit that such summons, or a true copy thereof, has been personally served or left at the last known or usual place of abode of the person so summoned, or transmitted by post to him at such last known place of abode, or, in case the person to whom such summons was directed, and his place of abode, cannot be found, that due diligence has been used to ascertain the same," [How if he be dead?] "such judge shall be at liberty to proceed ex parte to hear and determine the matter; but if either party be dissatisfied with such order, he may apply to the superior court of which such judge is a member to review such order, and make such further order thereon as such court may see fit; and the remedies provided by this section shall be applicable to any entry made in the register-book of Stationers' Hall, and of any insertion in any such lists publicly exposed by the Commissioners of Customs prior to the passing of this act.

"22. If any person, not being the proprietor of the copyright in any work of literature or art wherein such copyright shall be subsisting, shall, without the authority in writing of such proprietor, knowingly import, sell, publish, or expose, or have in his possession for sale or hire in any part of the British dominions, any pirated copy of such work, he shall forfeit the same, and also the sum of 5*s*. in respect of every such copy to the proprietor of the copyright; and every person who shall have in his possession the plate upon which any pirated copy of any print, chart, or map may be engraved, or any mould or die for the manufacture of pirated copies of any sculpture, model, or cast, shall forfeit the same to the said proprietor."

In sect. 20 we have a different provision against the importation of pirated copies of works notified to the Customs, namely, forfeiture of the pirated copies and 5*l*. per copy. At present the penalty is 10*l*. and double the value of each copy—and why not? Half of the penalty goes to the officers of Customs or Excise. Macaulay's History of England may be purchased, we are told, in Canada for 6*d*. and in the West Indies for 8*d*. per volume. It would be a small consolation to the victims of such a piracy to recover the spurious copies and 5*s*.

"23. Any person who shall represent or perform any dramatic piece or musical composition without the consent of the author or proprietor of the sole right of representing or performing the same, during the continuance of such right, shall forfeit to such author or proprietor the sum of 40*s*., or the full amount of the benefit or advantage arising from each such representation or performance, or the injury or loss sustained by such author or proprietor, for whichever he shall elect to proceed or sue, together with the costs of such proceeding or suit." [The existing law says "*publicly* perform," not meaning to interdict displays at private parties, &c.]

"24. If any person shall during the term of copyright in any lecture, without the leave of the author thereof or his assigns, by any means obtain or make a copy thereof, or print or publish the same in any public newspaper or otherwise, or shall sell or publicly expose any copy thereof for sale, knowing the same to have been obtained or printed or published without such leave as aforesaid, every person so offending shall forfeit to the author or his assigns every such pirated copy found in his possession, and 1*l*. for every sheet thereof."

The existing law (5 & 6 Will. 4, c. 65, s. 1) says 1*d*. per sheet, and is confined to piracy of unpublished lectures. Under the bill the penalty for pirating a volume of poems is forfeiture of the copies and 5*s*. per copy; but if it is a volume of lectures, (including sermons?), it is 1*l*. per sheet.

"25. Any penalty or forfeiture imposed by this act, and given to the proprietor of the copyright in respect of which the same is incurred, except books absolutely forfeited under sect. 20, may be prosecuted or recovered by such proprietor before any justice of the peace or magistrate for the county or place in which the offence shall have been committed, or in which the offender shall reside, without prejudice to any right of action which the proprietor may or might otherwise have had for any damages consequent on this or any other infringement of his privilege of copyright; and any damages, which such proprietor may sustain from any infringement of his privilege of copyright, may be sued for by action at law, to be brought by him in any court having jurisdiction in that part of the British dominions in which the offence shall have been committed or the offender shall reside; and in every such proceeding, if it relate to the right of representation or performance of any dramatic piece or musical composition, it shall be sufficient for the plaintiff to state that he has the sole right, without stating that it is subject to any right which he could or may have given to any other person, not being the defendant, to represent or perform the same. In any such action as aforesaid the defendant, on pleading thereto, shall give to the plaintiff a notice in writing of any objection on which he means to rely on the trial thereof; and if he assert that the plaintiff is not the author or first publisher of such book, or the proprietor of the copyright therein, or that some other person was so, he shall specify in such notice the name of such other person, together with the title of the book, and the time and place of first publication thereof; otherwise he shall not, at the trial or hearing of such action, be allowed to give evidence that the plaintiff was not the author or first publisher of the book, or the proprietor of the copyright therein, or that any other person was so; nor shall any objection be allowed to be made or taken by or for the defendant which shall not have been stated in such notice. And if any action or suit shall be commenced or brought against any person for doing or causing to be done anything in pursuance of this act, the defendant in such action may plead the general issue, and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant, or the plaintiff shall become nonsuited or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as any defendant has by law in any other case. And all actions, suits, bills, indictments, or informations for any offence against this act shall be brought, sued, and commenced within twelve months next after such offence committed, or else the same shall be void; provided that such limitation of time shall not extend or be construed to extend to any actions, suits, or other proceedings which, under the authority of this act, shall or may be brought, sued, or commenced for or in respect of any copies of books to be delivered for the use of the British Museum, or of any one of the four libraries hereinbefore mentioned.

"26. The proprietor of the copyright in any work of literature or art shall not be entitled to the protection or benefit of any of the provisions of this act in respect of any such work as he is hereby permitted to register, unless he shall so register the same in the manner prescribed for that purpose, nor in respect of any such work which by this act is required to be delivered for the use of the British Museum and public libraries, unless he shall so deliver the same in manner prescribed by this act; nor shall the proprietor of any translation of any dramatic piece be entitled to such protection or benefit unless such translation be published within three months after the registration of the work of which it is a translation: provided always, that the omission to register any work of literature or art shall not affect the copyright therein of the proprietor thereof, nor shall such omission as to any dramatic piece prejudice the remedies which the proprietor of the right of representation thereof may have by virtue of this act."

This is more puzzling than "crowner's quest law." The proprietor of copyright shall not be entitled to the protection or benefit of any of the provisions of the act unless he register and deliver copies; yet, look you, the omission to register shall not affect his copyright! But what becomes of his copyright if he omits to deliver copies? Mass, we cannot tell. Neither can we tell whether or not, upon registration and delivery of copies, the title relates back to the time of publication. Let the publishers look to this; it is a blundering extension of a clause in the Foreign Copyright Act, (7 & 8 Vict. c. 12, s. 6).

"27. In case the Legislature or proper legislative authorities in any British possession shall make due provision for securing or protecting the rights of British authors in such possessions by any act or ordinance duly approved of by her Majesty for that purpose, her Majesty may, if she think fit, thereupon issue an Order in Council declaring that so long as the provisions of such act or ordinance continue in force within such possession, the prohibitions and provisions contained in this or any other act relating to or for the privilege of copyright shall be suspended so far as regards such possession, and thereupon such act or ordinance shall come into operation, except so far as may be otherwise provided therein, or as may be otherwise directed by such Order in Council: provided always, that no such act or ordinance shall be construed to authorise the importation into the United Kingdom of any pirated copies of any work wherein copyright may be subsisting in the United Kingdom, and if such pirated copies shall be brought into the United Kingdom they shall be forfeited and destroyed, or returned to the British possession from which they shall have been imported, as the Commissioners of Customs may direct."

This is the stat. 10 & 11 Vict. c. 95, which by some means was smuggled through the Legislature for the purpose of enabling American printers to rob English authors of the benefit of their copyright in the colonies; and it has fulfilled that purpose. Being objectionable, it is, of course, served up again, but with the same blunder as in dealing with the International Copyright Acts. The existing act is repealed absolutely, and re-enacted only prospectively, without any saving of existing ordinances of colonies and orders in council.

"28. To provide against the suppression of books of importance to the public, the Judicial Committee of her Majesty's Privy Council, on complaint made to them that the proprietor of the copyright in any book, after the death of its author, has refused to republish or to allow the republication thereof, whereby such book may be withheld from the public, may grant a license to such complainant to publish such book in such manner and subject to such conditions as they may think fit, and such complainant may publish such book accordingly.

"29. Nothing in this or any other act relating to copyright shall prevent the importation into the United Kingdom, for deposit in the library of the British Museum, of single copies of any books which may consist in part of matter in which any copyright may subsist in the British dominions, provided the same contain other and original matter.

"30. When her Majesty shall have issued any Order or Orders in Council under the authority of this act, her Majesty may from time to time revoke the whole or any part thereof by any further order; and in case such order of revocation shall apply to any books or prints, the same shall be chargeable, upon importation into the United Kingdom, with the duties payable on books or prints imported from any foreign country between which and this country no treaty of international copyright subsists."

The proper place for this, if nonsense can be properly placed anywhere, is after sect. 33.

"31. Every Order in Council issued under the authority of this act, or to give effect to any colonial act or ordinance relating to copyright duly approved by her Majesty, shall, within fourteen days after the issuing thereof, be twice published in the London Gazette.

"32. A copy of every Order in Council issued under the authority of this act and of every such act or ordinance, together with the Order in Council thereon, shall be laid before both Houses of Parliament within six weeks after issuing of such order, if Parliament be then sitting, and if not, then within six weeks after the commencement of the then next session of Parliament.

"33. Whenever a treaty shall have been concluded between her Majesty and any foreign country for the purpose of securing to the authors and publishers of the United Kingdom and of such country respectively a reciprocal protection in their rights of property in their literary productions, and her Majesty shall have, by virtue of the power vested in her, issued an Order in Council conferring privilege of copyright on the authors, inventors, designers, engravers, or makers of any books and prints published in such country, it shall be lawful for the Commissioners of her Majesty's Treasury to direct that such books and prints shall, upon their importation into the United Kingdom, be charged only with the duties set forth in the tariff acts in force for the time being as payable upon books and prints admitted under treaties of international copyright; and whenever it shall be a stipulation in any such treaty that the duties to be charged on such books and prints shall not be raised during the continuance of such convention, or that in case any reduction of those rates should be made, during such period, in favour of books and prints published in any other country, the books and prints of the country with which such treaty shall have been concluded shall also be subject only to such reduced duties on importation, such stipulations shall have the effect of law, and such books and prints shall be charged with duty on importation into the United Kingdom, according to the terms of such stipulations.

"34. This act shall extend to the United Kingdom of Great Britain and Ireland, and to every part of the British dominions, including the islands of Guernsey, Jersey, Alderney, and Sark, and shall be registered in the royal courts of the Islands of Guernsey and Jersey respectively, and the said royal courts respectively shall have full power and authority and are hereby required to register the same.

"35. This act shall come into operation on the day of the passing of this act; and in citing it in other acts of Parliament and in legal instruments it shall be sufficient to use the expression "the Copyright Consolidation Act, 1857."

"36. 'Assigns' *shall be construed to mean and include* every person in whom the interest of the author in any copyright shall be vested, whether derived from such author before or after the publication of the work, either by sale, gift, bequest, operation of law, or otherwise:

'Author' *shall*, with reference to prints, sculptures, and other works of art, *be deemed to include* the engraver, designer, inventor, and maker thereof:

'Board of Trade' *shall mean* the Lords of the Committee of Privy Council for the consideration of all matters of trade and plantations:

Book' shall be construed to mean and include every volume, part or division of a volume, pamphlet, sheet of letter-press, sheet of music:

'Print' *shall include* prints taken by lithography, or any other mechanical process by which any objects or any prints or impressions of drawings or designs are capable of being represented or multiplied indefinitely:" [Why not photographs?]

'British dominions' *shall mean and include* the United Kingdom of Great Britain and Ireland, and all colonies, settlements, and possessions of the Crown which now are or hereafter may be acquired:

'Copyright' *shall be construed to mean* the sole and exclusive liberty of printing or otherwise multiplying copies of any subject to which the said word is herein applied:

'Dramatic piece' shall be construed to mean and include every tragedy, comedy, play, opera, farce, or other scenic, musical, or dramatic entertainment:" [Polonius is still more particular.]

'First publication' shall include first representation, performance, or delivery of dramatic pieces, musical compositions, and lectures:

'Pirated copy' shall mean, with reference to any work of literature or art in which copyright subsists, any copy of such work printed or published or made without the written authority of the proprietor of such copyright; and with reference to any work of literature or art first published in any foreign country to which the privilege of copyright is extended, shall mean any copy thereof printed, published, or made without the sanction of the proprietor of the copyright therein, in any other country than that in which such work shall have been first published:"

What will France, Belgium, Prussia, &c. say to this? Are Galignani or Tauchnitz piracies and translations of foreign copyright works to be imported into and sold in this country without restraint, if they happen to be printed without sanction in the country of first publication? A French or German author sells his British copyright and the right of translation to a British publisher; may the author afterwards export his own copies to this country? A copy of part of a work is not a copy of the work, and is not prohibited as a pirated copy.

'Periodical work' shall mean and include any encyclopædia, review, magazine, or work published in a series of volumes, or in parts or numbers, or other periodical work:

'Registrar' shall mean the officer appointed by the Company of Stationers in London for registering copyright works:

'Universities and colleges' *shall be understood to mean* the two universities in England and the colleges or houses of learning within the same, the four universities in Scotland, and the colleges of Eton, Westminster, and Winchester."

BILL IN PROGRESS.

THE NEW OATHS BILL.

A Bill to amend the Act 1 & 2 *Vict. c.* 105, *intituled "An Act for removing Doubts as to the Validity of certain Oaths."*

Whereas in all cases in which the sanction of an oath is required, the oath ought, by the common law, to be administered in such manner as will render it most effective and binding on the conscience of the person to be sworn; but doubts have arisen whether such rule of the common law be applicable to cases in which a special form of abjuration or special words of asseveration are prescribed by statute; for the removal of such doubts, be it declared and enacted &c.

Sect. 1. That notwithstanding any statute or usage to the contrary, whenever any person to whom an oath is tendered shall object to its administration in the prescribed or accustomed form, or in the prescribed words of asseveration, and the same shall be administered to him in such form of words and with such solemnities as he shall declare to be binding on his conscience, the oath when so administered shall be deemed to have been lawfully administered and taken; and every person so taking the oath shall, if guilty of false swearing, be liable to conviction for perjury, and shall be subject to every other consequence and entitled to every benefit to which he would have been subject or entitled if the oath had been administered in the prescribed or accustomed form, and with the prescribed words of asseveration, and the prescribed or accustomed solemnities.

Thomas M'Kay and *John M'Kay* the younger, Newcastle-upon-Tyne, hosiers, Aug. 10 at 11, Newcastle-upon-Tyne, last ex.—*Charles Hurry Riches*, Cardiff, Glamorganshire, carrier, Sept. 10 at 11, Bristol, aud. ac.—*John Brown*, West Bromwich, Staffordshire, wine merchant, Aug. 7 at half-past 11, Birmingham, aud. ac.—*David Buckler*, Birmingham, builder, Aug. 7 at half-past 11, Birmingham, aud. ac.—*Isaac James Hadwen* and *James Lamont M'Gregor*, Liverpool, and Havannah, Island of Cuba, merchants, Aug. 6 at 11, Liverpool, aud. ac. sep. est. of *J. L. M'Gregor*.—*Barnet Walker*, Sheffield, Yorkshire, cabinet maker, Aug. 8 at 10, Sheffield, aud. ac.—*Henry Howgate* and *George Howgate*, Sheffield, Yorkshire, steel converters, Aug. 8 at 10, Sheffield, aud. ac.—*Frederick Lawson Banks* and *Robert Dawson*, Sheffield, Yorkshire, common brewers, Aug. 8 at 10, Sheffield, aud. ac.—*Ralph Richardson*, Caterham, Surrey, builder, Aug. 18 at 1, London, div.—*C. Margerison* and *E. B. Fort*, Savage-gardens, Tower-hill, wine merchants, Aug. 18 at 12, London, div.—*Andrew Hind*, Pleasant-row, Pentonville, tea dealer, Aug. 18 at 12, London, div.—*F. Duncan*, Liverpool, merchant, Aug. 18 at 11, Liverpool, div.—*James Turner*, Newcastle-upon-Tyne, oil merchant, Aug. 26 at 11, Newcastle-upon-Tyne, fin. div.—*Robert Taylor*, Sunderland, draper, Aug. 17 at 12, (and *not* Aug. 5, as previously advertised), Newcastle-upon-Tyne, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Alexander B. Henderson, London-street, Paddington, livery-stable keeper, Aug. 19 at 1, London.—*Samuel Gifford*, Mark-lane, canvas merchant, Aug. 18 at 1, London.—*T. F. Theed*, Winchester-street, Waterloo-town, Middlesex, surgeon, Aug. 19 at 2, London.—*Wm. O. Cameron*, Camomile-street, City, export oilman, Aug. 19 at 1, London.—*George D. Richardson*, Carlisle, ironfounder, Aug. 18 at 12, Newcastle-upon-Tyne.—*Robert Taylor*, Sunderland, draper, Aug. 17 at 12, (and *not* Aug. 5, as previously advertised), Newcastle-upon-Tyne.—*S. W. Anthony*, Liverpool, commission merchant, Aug. 18 at 11, Liverpool.—*Edw. Williams*, Chester, and Saltney, Flintshire, plumber, Aug. 20 at 11, Liverpool.—*Wm. Rawle*, Liverpool, broker, Aug. 20 at 11, Liverpool.

To be granted, unless an appeal be duly entered.

Thomas Earle, Parliament-street, Westminster, railway contractor.—*Wm. Penny*, Newport, Monmouthshire, brewer.—*Aaron Collinson*, Burnley, Lancashire, cotton manufacturer.—*Robert M'Lean* and *James M'Lean*, Hulme, Manchester, builders.—*John Wick*, Sheffield, electro plater.—*H. Walters* and *B. Walters*, Alfreton, Derbyshire, druggists.—*John Shaw* and *Joseph Shaw*, Sheffield, tailors.—*John Pepper* and *E. A. Holmes*, Sheffield, grocers.—Sir *Charles Fox* and *J. Henderson*, London Works, Smethwick, Staffordshire, and New-street, Spring-gardens, Westminster, and Fore-street, Limehouse, engineers.—*J. Iliffe*, Birmingham, commission agent.—*F. W. Whiston*, Birmingham, druggist.

SCOTCH SEQUESTRATIONS.

A. M'Arthur, Inverary, merchant.—*Robt. Haynes*, Edinburgh.—*Wm. Stephen*, deceased, Arbroath, shipbuilder.

THE PRIVILEGE OF REPORTS.—The Select Committee of the House of Lords on the Privilege of Reports have agreed to the following resolutions:—1. That the prayer of certain petitioners, that there shall be entire immunity for the publication in newspapers of all that is spoken at all public meetings, if the report be faithful, thus depriving persons calumniated of all remedy, save against the speaker, cannot safely be granted. 2. That faithful reports of the proceedings of either House of Parliament, at which strangers have been permitted to be present, shall have the same privilege as is now granted to faithful reports of the proceedings of courts of justice. 3. That if an action shall be brought for an alleged libel, it shall be competent for the defendant, in addition to any other plea, to plead "that the alleged libel was part of the report of the proceedings of a public meeting lawfully assembled for a lawful purpose, and that the said report is a faithful report of the said proceedings at the said public meeting, and that the plaintiff has sustained no actual damage by the publication of the alleged libel;" and that on proof of this plea, the jury should be directed to find a verdict for the defendant. And 4. That a public meeting for this purpose shall be a meeting lawfully called by the sheriff of a county or other public functionary to petition the Queen or either House of Parliament, or a meeting for the election of members of Parliament, or a meeting of the town council of any city or borough, or a meeting held under the authority of an act of Parliament for imposing rates on, or regulating the local affairs of, any district.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—Charles James Fox, of Canterbury, in and for the city of Canterbury, also in and for the county of Kent; William John Cowper, of Newbury, Berkshire, in and for the county of Berks; Park Nelson, of Essex-street, Strand, in and for the city of London, also in and for the county of Middlesex, and city and liberties of Westminster; Edward Mackeson, of Lincoln's-inn-fields, in and for the city of London, also in and for the county of Middlesex, and city and liberties of Westminster; William Merriman Ley, of Bishop's Stortford, Hertfordshire, in and for the county of Herts; Henry Nethersole, of New Inn, in and for the county of Middlesex, and city and liberties of Westminster; James Bird, of Brook-green, Hammersmith, Middlesex, in and for the county of Middlesex, and city and liberties of Westminster; and Thomas Goodwyn Archer, of King's Lynn, Norfolk, in and for the county of Norfolk.

MEMBERS RETURNED TO SERVE IN PARLIAMENT.—The Right Hon. Edward Cardwell, for the city of Oxford, in the room of Charles Neate, Esq., whose election has been declared void. Alfred Spencer Churchill, commonly called Lord Alfred Spencer Churchill, for the borough of Woodstock, in the room of John Winston Spencer Churchill, commonly called Marquis of Blandford, now Duke of Marlborough, called up to the House of Peers. Lionel Nathan de Rothschild, commonly called Baron Lionel Nathan de Rothschild, re-elected for the city of London after accepting the office of Steward of her Majesty's Chiltern Hundreds.

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GAZETTES.—Friday, *July* 31.

Bankrupts.

ALEXANDER ROBINSON, Great St. Helens, City, merchant, Aug. 12 at 1, and Sept. 14 at 2, London: Off. Ass. Nicholson; Sol. Murray, 11, London-street, Fenchurch-street.—Pet. f. May 28.

ANDREW M'KEAN, Southampton, timber merchant, (lately carrying on business with John Ferrier, under the style or firm of M'Kean, Ferrier, & Co.), Aug. 11 at 1, and Sept. 14 at half-past 1, London: Off. Ass. Nicholson; Sols. Coxwell & Bassett, Southampton; Westall, 3, South-square, Gray's-inn.—Pet. f. July 28.

JAMES CASTLE, Little Farringdon Mill, near Lechlade, Berkshire, miller, Aug. 11 at 11, and Sept. 14 at 2, London: Off. Ass. Pennell; Sol. Rogers, 70, Fenchurch-street.—Pet. f. July 28.

GEORGE WILLIAM NEALES, New Oxford-street, upholsterer, Aug. 11 at 2, and Sept. 15 at 12, London: Off. Ass. Nicholson; Sols. Pocock & Poole, 58, Bartholomew-close.—Pet. f. July 30.

ROBERT EDMANDS, Charlotte-street, Bedford-square, Bloomsbury, dealer in mining shares, Aug. 17 and Sept. 14 at 11, London: Off. Ass. Nicholson; Sol. Chidley, 10, Basinghall-street.—Pet. f. July 27.

HENRY SUTTON, Plaistow-marsh, Essex, builder, Aug. 12 at 12, and Sept. 14 at half-past 11, London: Off. Ass. Pennell; Sols. Philpot & Greenhill, 49, Gracechurch-street, City.—Pet. f. July 21.

JAMES SIMMONS, Bridge-terrace, Harrow-road, Paddington, marble merchant, Aug. 17 at 12, and Sept. 15 at 1, London: Off. Ass. Pennell; Sol. Chidley, 10, Basinghall-street.—Pet. f. July 30.

HUMPHREY BROWN, Little Smith-street, Westminster, Middlesex; Tewkesbury, Gloucestershire; and Queen's Bench Prison, Southwark, Surrey, shipowner, Aug. 14 at 11, and Sept. 19 at 12, London: Off. Ass. Johnson; Sols. Tucker & Co., 28, St. Swithin's-lane.—Pet. f. July 29.

REUBEN THEODORE GLOVER and EDGAR AUGUSTUS GLOVER, Piccadilly, licensed victuallers, Aug. 8 at 11, and Sept. 11 at half-past 11, London: Off. Ass. Cannan; Sols. Lawrence & Co., 12, Bread-street, Cheapside.—Pet. f. July 17.

EDWARD KINSELLA, New Bond-street, tailor, Aug. 8 at half-past 11, and Sept. 11 at 2, London: Off. Ass. Whitmore; Sol. Milburn, 28, Moorgate-street.—Pet. f. July 30.

JAMES MORTON, Huntingdon, ironmonger, Aug. 14 and Sept. 11 at 12, London: Off. Ass. Cannan; Sols. Hunnybun, Huntingdon; Sewell & Co., 6, Gresham-house, Old Broad-street.—Pet. f. July 24.

GEORGE PULLIN, Whitecross-street, baker, Aug. 13 at half-past 11, and Sept. 11 at 12, London: Off. Ass. Cannan; Sols. Wire & Co., 1, Turnwheel-lane, Cannon-street.—Pet. f. July 30.

BENJAMIN HEMINGWAY, Derby, painter, (carrying on business under the style or firm of B. Hemingway & Son), Aug. 11 and Sept. 8 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Shaw, Derby.—Pet. f. July 27.

EDMUND LILLYCRAPP MASON, Plymouth, innkeeper, Aug. 10 and 31 at 10, Plymouth: Off. Ass. Hirtzel; Sols. Robins, Plymouth; Stogdon, Exeter.—Pet. f. July 28.

HENRY ALTHORP BENTHAM, Sunderland, Durham, shipowner, Aug. 13 at 12, and Sept. 16 at half-past 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Ranson & Son, Sunderland.—Pet. f. July 28.

EDWIN THOMPSON, Lydbrook, Gloucestershire, innkeeper, Aug. 11 and Sept. 14 at 11, Bristol: Off. Ass. Miller; Sol. Bevan, Bristol.—Pet. f. July 28.

GEORGE GREEN, Mirfield, Yorkshire, cloth manufacturer, Aug. 17 and Sept. 14 at half-past 11, Leeds: Off. Ass. Hope; Sols. Iveson, Heckmondwicke; Bond & Barwick, Leeds.—Pet. d. July 23.

SAVAS CARACAZZANI, Manchester, merchant, (trading with Stavro Theodoridi Macario Constandinidi and Basilio Joseph, under the style or firm of St. Theodoridi & Co. at Constantinople, and of S. Caracazzani & Co. at Manchester), Aug. 12 and Sept. 2 at 12, Manchester: Off. Ass. Pott; Sol. Welah, Manchester.—Pet. f. July 28.

JOHN SEXBY, Vauxhall-walk, Lambeth, builder, Aug. 6 at 12, and Sept. 4 at 1, London: Off. Ass. Whitmore; Sol. Labrow, 22, Chancery-lane, (and *not* Sewell & Co., Gresham-house, Old Broad-street, as formerly advertised).—Pet. f. July 23.

Meetings.

Philip Nairn, Waren Mills, near Belford, Northumberland, miller, Aug. 11 at half-past 11, Newcastle-upon-Tyne, last ex.—***Wm. Organ***, Walsall, Staffordshire, saddler, Aug. 19 at half-past 10, Birmingham, last ex.—***Edward Butler***, Clifford-street, Bond-street, Middlesex, tailor, Aug. 11 at 12, London, aud. ac.—***Thomas Stutely***, Sheerness, stonemason, Aug. 10 at 11, London, aud. ac.—***George Tilley***, Walton-on-Thames, Surrey, brewer, Aug. 10 at 11, London, aud. ac.—***Charles Budden***, Basingstoke, Southampton, tailor, Aug. 10 at 11, London, aud. ac.—***Thomas Lawrenson***, Liverpool, shipsmith, Aug. 18 at 11, Liverpool, aud. ac.—***Thomas Swinnerton***, Nuneaton, Warwickshire, cordwainer, Sept. 17 at half-past 11, Birmingham, aud. ac.—***Thomas Huntley***, Sunderland, grocer, Aug. 13 at 11. Newcastle-upon-Tyne, aud. ac.—***George Williamson***, Stair Mill, Crosthwaite, Cumberland, woollen manufacturer, Aug. 14 at half-past 11, Newcastle-upon-Tyne, aud. ac.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Charles Budden, Basingstoke, Southampton, tailor, Aug. 24 at half-past 11, London.—***Thomas Horner***, Hart-street, Bloomsbury, house decorator, Aug. 24 at 2, London.—***Geo. Johnson***, Billingham, Durham, corn merchant, Aug. 24 at half-past 12, Newcastle-upon-Tyne.—***Enoch Hughes*** and ***W. Adams***, Princes End, Sedgley, Staffordshire, ironfounders, Aug. 31 at 10, Birmingham.

To be granted, unless an Appeal be duly entered.

William Tilbury, Great Titchfield-street, Marylebone, and Cleveland-mews, Fitzroy-square, brassworker.—***Lewis Benjamin***, Jewry-street, Aldgate, fish merchant.—***Thomas Riley Ebsworth***, Wapping-wall, Middlesex, and Forest-villa, Forest-hill, Sydenham, Kent, ale merchant.—***John Solomon***, Vine-street, Minories, beer merchant.—***Robt. Hoff Bryan***, Lincoln, watchmaker.—***Samuel J. Smith***, Birmingham, auctioneer.—***Edward Bevan***, Kidderminster, Worcestershire, victualler.

Petitions Annulled.

Charles Ryland, Birmingham, merchant.—***George Bates***, Newport, Monmouthshire, soda-water manufacturer.

Scotch Sequestrations.

Alexander Wyness, Inverary, butcher.—***Captain William Watt***, Banff.—***Alexander Fraser***, Perth, shoemaker.—***James Lumsden & Co.***, Glasgow, warehousemen.—***William Forrest Dewar***, Glasgow, slater.

Tuesday, *Aug.* 4.

Bankrupts.

JOHN DICKSON, Bread-street, City, warehouseman, Aug. 17 at half-past 12, and Sept. 21 at 11, London: Off. Ass. Pennell; Sol. Mardon, Christchurch-chambers, 99, Newgate-street.—Pet. f. Aug. 1.

THOMAS HAWLEY, Blackfriars-road, Surrey; Clement's-inn-passage, Strand; King's-road, Chelsea; and Crawford-street, Marylebone, grocer, Aug. 17 at half-past 11, and Sept. 15 at 11, London: Off. Ass. Nicholson; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. July 31.

JOHN KIRKHAM, Bridge-road, Battersea, ironfounder, (trading under the style or firm of John Kirkham & Co.), Aug. 14 and Sept. 11 at half-past 11, London: Off. Ass. Cannan; Sol. Chauntler, 8, Gray's-inn-square.—Pet. f. Aug. 3.

HENRY LANCASTER, Walsall, Staffordshire, ironmaster, Aug. 14 at 10, and Sept. 3 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Hayes, Wolverhampton; Hodgson & Allen, Birmingham.—Pet. d. July 24.

WILLIAM WINNING, Wirksworth, Derbyshire, small-ware manufacturer, Aug. 18 and Sept. 15 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Stone, Wirksworth; Bowley & Ashwell, Nottingham.—Pet. d. July 31.

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THE JURIST.

LONDON, AUGUST 8, 1857.

THE REPORT OF THE COMMON-LAW (JUDICIAL BUSINESS) COMMISSION.

OUR readers are no doubt aware, that several months ago a Commission issued from the Crown to several eminent members of the Legislature and of the Profession*, directing an inquiry "into the present arrangements for transacting the judicial business, civil and criminal, of the superior courts of common law in England and Wales, together with the times and places at which assizes are holden," and directing them to report "whether any changes can be made by which such business may be transacted with greater convenience and at a less expense; and also whether any reduction may be made in the present number of the judges without detriment to the public service."

The Report of the Commissioners has just been presented, and the suggestions contained in it are so important to the Profession generally, that, having had an opportunity of perusing it, we hasten to lay before our readers a sketch of its contents.

The first matter entered upon is the possibility of reducing the present number of the judges in the common-law courts at Westminster Hall; and although the members of the Profession have probably, in common with ourselves, a strong feeling against any such reduction, the subject has excited so much attention in various quarters, in the House of Commons especially, that the Commissioners have deemed it worthy of thorough investigation. An inquiry has therefore been instituted as to the amount of judicial business transacted prior to 1830, when the judges were but twelve in number—no doubt with a view to correct an erroneous impression common to many, that the additional judges appointed in 1830 were made in consequence only of the increase in the number of the circuits by the addition of Wales.

This inquiry is, however, productive of no very satisfactory results, owing to the vast change in the nature of the business transacted since that time, occasioned partly by the abolition of many formal and trifling matters which used to occupy the time of the Court, and partly by the introduction in modern acts of Parliament of entirely new business, considerably more intricate and important than any of that which has ceased to exist. The consequence of all this is, that although numerically the Cause Lists and Court Papers of the present day do not equal any of those of the five years prior to 1830, in matters of weight and difficulty they no doubt far exceed them.

---

* The original Commissioners, appointed by warrant under the sign-manual, dated the 3rd December, 1856, were, Lord Campbell, Lord Wensleydale, the late Baron Alderson, Mr. Justice Cresswell, Sir John Pakington, Mr. Stuart Wortley, Sir Frederick Thesiger, Mr. Wilson Patten, and Mr. Waddington. By subsequent warrants, Mr. Baron Martin succeeded Baron Alderson, and Viscount Eversley took the place of Sir Frederick Thesiger, who had previously resigned.

Mr. Stuart Wortley was prevented by illness from attending any but the preliminary meetings of the Commissioners, and his signature is not attached to the Report.

For greater satisfaction, however, on this point, another comparison has been made between the amount of business transacted in 1856 and the average yearly amount of a period embracing the twelve years ending and including 1856. The result of this, taking into account the increased length of trials at Nisi Prius since the recent admission of parties as witnesses, and the permission afforded to counsel of making additional addresses to the jury, is, in the opinion of the Commissioners, evidence of the existence of an increased rather than of a diminished amount of judicial labour; and the examination of Mr. Justice Coleridge and Mr. Baron Bramwell, whose opinions on this point are published in the Appendix, fully confirms their view of the case.

A very important item, in considering the desirability of having twelve instead of fifteen judges, relates to the necessary attendance in such case of three instead of four members of each court upon the Banc sittings. The present attendance of four judges is, perhaps, open to the objection, that in cases where a difference of opinion arises there may by possibility be an equal division. Such an event is, however, declared by one or two witnesses examined to be of extremely rare occurrence, and the evil, if it exists, is far outweighed by the advantage of having at all other times either the unanimous opinion of four judges, or else the opinion of three against one—more satisfactory a great deal to the suitor than the opinions of a bare majority.

A still more important argument against the reduction of the existing judicial staff, and one which seems to us to have weighed much with the Commissioners, is, that as at the present time, owing to unavoidable causes, very frequently three judges only are able to sit together in Banc, so if the *normal* number were reduced to three, the like causes would as frequently reduce the attendance to two, and very much inconvenience would be occasioned.

The unanimous opinion of the Commissioners is, that the present number of fifteen judges ought to be retained; and we feel sure that both the Profession and the public generally will concur in their recommendation.

No less than *nine* towns, of greater or less importance, sent in memorials, praying either for separate assizes or for an extension of their present assize jurisdiction.

The first of these claims taken into consideration in the Report is that of the city of Manchester and hundred of Salford, the enormous increase in the commerce of which during the past few years has rendered it a matter of the greatest inconvenience that all the causes and criminal business arising in these two places should be sent for trial to Liverpool, distant nearly thirty miles.

Nineteen memorials were presented to the Commissioners from various parts of the county palatine, praying for a separate assize at Manchester, and such prayer was advocated by a deputation which attended the Commission in February last, and who stated, amongst other things, that the corporation of Manchester was prepared to expend, if necessary, 50,000*l.* in the erection of the necessary courts, judges' lodgings, and other accommodation. This statement, being supported by an elaborate calculation of the immense additional cost of civil actions arising in Manchester, and tried thirty miles off, has called forth a unanimous recommendation that a separate criminal and civil assize shall be holden at Manchester for that city and the hundred of Salford.

The corporation of Lancaster also made an application for a large extension of their present assize jurisdiction; but the arguments by which it was supported were so slender as to be declared wholly insufficient to warrant the adoption of any such important measure, and the prayer of the memorialists is, therefore, unanimously rejected.

A much stronger case, as it appears to us, was made out by the representatives of the West Riding of the county of York for the removal of their assizes from York; but there are unfortunately two rival towns, Leeds and Wakefield, both equally desirous of obtaining the West Riding assizes, and they, both in their memorials and by their deputations, put forth arguments against one another's claim, and furnished the deputation from York with several very good suggestions (which the representatives of that ancient city appear to have been by no means slow to take advantage of) for retaining the assizes for the whole county at the place where they are now holden. The Commissioners are unanimous against the claim of *Leeds*, but as to Wakefield they differ, Sir John Pakington and Mr. Wilson Patten thinking assizes ought to be holden there, and the rest of the Commissioners believing them to be unnecessary.

Birmingham has made a very strong claim for a separate assize, grounding the application upon a statement, that not only is Birmingham the centre of a vast mining and manufacturing district situate on the borders of Warwick and Staffordshire, and connected by railroads with all parts of those two counties, but also that the inhabitants of that densely-populated town equal in number half the population of the entire county, while nearly one-third of the civil and criminal business tried at Warwick arises in Birmingham.

Upon this statement two claims are put forth—one, that Birmingham may be made the centre of an assize district, to be hereafter defined by law, and to include the whole of the county of Warwick and the mining and manufacturing districts of South Staffordshire; the other, (if the first is rejected), that, without abolishing the present Warwick assizes, additional ones may be held at Birmingham for the borough alone.

The former of these propositions is unanimously rejected by the Commissioners; but as to the propriety of the latter, so much difference of opinion exists that the numbers are equally divided, four voting in favour of and four against any change at all in the county assizes. The Birmingham memorial, therefore, goes before the Queen in by no means an unfavourable manner, and we shall not be greatly surprised if the more moderate of the two prayers is eventually granted.

Memorials and a deputation from Bristol complain of the inconvenience arising from all the criminal business of the city being tried, forty miles away, at Gloucester, and of the injustice done to prisoners, who are seldom able to raise funds sufficient to bring any witnesses that distance. It is, in addition, alleged as a grievance, that, owing to there being only one civil assize in the year holden at Bristol, in local actions, such as ejectment, the party entitled is delayed nearly a year before he can get a judgment.

Although this latter statement is undoubtedly erroneous, with the existing provisions of the Common-law Procedure Act for changing the venue, all the Commissioners, except Mr. Justice Cresswell, think that a second *civil* assize ought to be holden at Bristol; but as to making any arrangements for transacting *criminal* business there, they are again equally divided in opinion.

The remaining memorials for additional assizes, presented by the corporations of Kendal, Hull, and Wisbech respectively, being unsupported by any documentary or other evidence, have been unanimously rejected.

The recommendations made respecting remodelling the circuits are sufficiently important to require the best attention of the Profession generally. Our space will only permit us to make a bare statement of the proposed alterations.

After referring to the Report of the Circuit Regulation Commission of 1845, and expressing their entire concurrence in the opinion therein contained touching the undue length of the Northern Circuit, and which will shortly be still further increased if the recommendation as to Manchester be adopted, the Commissioners suggest that York shall be taken from the Northern Circuit and added to the Midland; that Warwick shall be added to the Oxford, and Northampton to the Norfolk Circuit; and that Salop and Hereford, now forming part of the Oxford, shall for the future be included in the Welsh Circuits.

By this arrangement it is estimated that the respective length of the circuits affected will be as follows:—

North and South Wales	36 days.
Northern (without York)	36 „
Oxford (without Salop and Hereford, and with Warwick)	31 „
Midland (without Warwick and Northampton, with York)	35 „
Norfolk (with Northampton)	28 „

The amalgamation of the Welsh counties appears to have engaged a large amount of attention, and the opinion of the Commissioners on the subject is not expressed in so confident a manner as might have been anticipated.

The suggestion made by the majority is, that upon the North Wales Circuit, Ruthin and Mold shall be the alternate assize towns for the counties of Denbigh and Flint, and Bangor *or* Carnarvon for Carnarvon and Anglesey. Respecting Montgomery and Merioneth they offer no advice, owing to the incomplete state of several proposed railways through those counties.

Upon the South Wales Circuit it is suggested that two judges shall for the future go to Cardiff and Swansea, and together transact the large and increasing business of Glamorganshire; that Cardigan and Carmarthen shall be alternately the assize towns for the counties in which they are situate; that Haverfordwest shall remain the assize town for Pembroke; and that at Brecon shall be tried the business arising in Brecknock and Radnor.

We sincerely hope that these recommendations will be carried into effect. The avowed difficulty met with by the Commissioners of 1829, in attempting to unite the counties of the principality, arose out of the strong local feeling manifested against any such amalgamation. With great respect for the views others may even at the present time entertain upon the subject, we cannot help expressing our belief that the days have long gone by when local prejudice, however strong, is to stand in the way of public convenience and advantage.

No alteration whatever is proposed in the present arrangement of the terms, or times of holding the circuits. Winter commissions are recommended to be issued as at present to those towns in which the number of criminals awaiting trial renders such increased accommodation necessary, accompanied by commissions of assize and Nisi Prius, for the disposal of *civil* business, in Yorkshire and Lancashire, and such other places as may from time to time clearly require such assistance. Several suggestions were submitted to the Commissioners, and are mentioned in the Report, for a more equal division of the year by two general circuits; but the only feasible way of effecting this was by having one circuit in January and another in July, which would place the general assizes of the kingdom in the depth of winter, and render the number of prisoners for trial in July nearly double of that now appearing in the calendars of the Summer Circuit. The periods of the circuits, therefore, remaining unaltered, no useful change in the terms can, in the opinion of the Commissioners, be effected.

The prohibition of pleading between the 10th August and the 24th October by the stat. 2 Will. 4, c. 39, is considered so undesirable, that there is a recommendation for a new act of Parliament, in which the 1st October shall be substituted for the 24th; and it is suggested that the vacation judge may be empowered to try actions of lesser importance in all the courts during the month of October, and so not only afford to parties an earlier opportunity of having their causes tried, but relieve the Courts of much of the pressure of Michaelmas Term.

We must own we have considerable doubt as to much good being likely to result from this recommendation. All the members of the Profession examined preserve a dubious silence upon the point; and the ordinary absence from London during October of the more eminent members of the Bar will, we imagine, limit the benefit to be derived from any such change to very trifling matters of litigation.

An alteration likely to do away with much inconvenience has been recommended with reference to the sittings at Nisi Prius, and the attendance of the judges at chambers during term.

Every one conversant with the common-law courts is aware what great annoyance is continually caused to all parties concerned by the presiding judge being obliged, at two or half-past two o'clock in the afternoon, to adjourn the Court in order to attend chambers. To avoid this inconvenience, two equally objectionable methods have hitherto been resorted to—one, to request a brother judge, sitting in Banc, (and who is usually taken away from still more important business), to attend chambers; the other, to keep some 100 or 150 attornies and clerks waiting elsewhere until the conclusion of the cause he is trying.

The Commissioners suggest that this evil may for the future be remedied by one judge only attending chambers at a much earlier hour in the day, and transacting the business of all the courts; the other two "outsitting" judges to sit at Nisi Prius, and try indiscriminately all causes entered during the sittings.

Such, and such only, are the recommendations made by the "Common-law (Judicial Business) Commissioners." Considering the magnitude of the inquiry upon which they have been engaged, the shortness of the period (scarcely eight months) devoted to their investigations, and the immense amount of information collected together in the bulky Appendix to their Report, we think that the Profession and the public at large are very much indebted to them for the patience and assiduity with which the inquiry has been conducted. Every one of their recommendations is of unquestionable importance, and beneficial results must follow the adoption of nearly all of them. In this, as in every other effort at legal reform, we have no doubt that numerous obstacles started up during the progress of the inquiry, and invested many desirable alterations with difficulties before uncontemplated. Upon this subject we cannot do better than quote the peroration of the Report itself:—

"We have all felt strongly, that before recommending changes of importance in the mode of administering justice, it became us to satisfy ourselves clearly, by arguments leaving no doubt or hesitation in our minds, that such changes were called for by the wants of the public, and were for the general advantage and welfare of the nation.. By some of the alterations which we have proposed, more labour will undoubtedly be imposed upon the judges; by others, the interests of some members of the Bar may possibly be for a time affected. With regard to the first of these considerations, we are confident that the additional exertions required from the Bench will be willingly and cheerfully made; and with regard to the second, however much we should regret such a consequence of a partial re-arrangement of the circuits, we cannot allow it to deter us from laying before your Majesty, in obedience to your Majesty's commands, our unanimous resolution upon that subject. We have only to add, that upon this as upon all other branches of our inquiry, our great study has been to ascertain to the best of our ability in what mode the object required for the public benefit could be attained with the smallest sacrifice of private interest and convenience."

◆

From the statements made in Parliament, in pulpits, and in the *Quarterly Review*, it might be supposed that the Divorce Bill threatened a complete change in the status of husband and wife, and in the social habits of the people of this country. So far, however, is this from being the case that its provisions substantially embody that which has been the practice with regard to divorce in England during the last 170 years, and the main alteration will consist in reducing the expense attending the dissolution of the marriage tie, and in effecting such dissolution through a court of law, instead of by a special act of Parliament. Thus, since the case of *Lord Roos* in 1669, it has been the practice of Parliament to grant a divorce on the prayer of the husband for the adultery of his wife; and since the case of *Mrs. Addison* in 1801, to grant it at the suit of the wife for what may be termed *aggravated* adultery on the part of the husband. It is true that applications by wives for this relief have been very few—Mr. Macqueen sums them up as five in number*; but whenever they have been made, and it has been shewn that the husband has been guilty of incestuous adultery, or of adultery with bigamy, or the like, relief has been granted.

Again: in all these cases the parties have been allowed to marry again; and although a standing order of the House of Lords in 1809 required that a clause should be inserted in every divorce bill to the effect that the person whose marriage is dissolved shall not intermarry with the adulterer or adulteress, yet this clause has been invariably struck out in committee. It has not been retained, says Mr. Macqueen, "because all the feelings of humanity, and all the dictates of policy, suggest that the guilty parties ought not to be debarred from making amends to social order by entering into matrimony. To prevent marriage in such a case would be but to prolong the unseemly spectacle of adultery, and to inflict bastardy on the innocent and helpless offspring†." Putting aside that part of the bill which relates to procedure, it will be found merely to give the form of law to pre-existing and firmly-established practice on the subject. The bill permits of divorce à vinculo only in case of adultery on the part of the wife, and incestuous adultery, or adultery coupled with incest, or with cruelty, or with wilful desertion, on the part of the husband; it does not prohibit the parties from marrying again, or the adulterer and adulteress from intermarrying. Even now we fall short of the liberty granted to misyoked humanity in all foreign Protestant countries. In Scotland, wilful desertion for four years, followed by a judicial requisition of conjugal rights on the part of the complainant, warrants a divorce.

The provisions of the bill at length will be found ante, p. 219.

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed Robert Henry Whitcombe, Gent., of Bewdley, Worcestershire, to be a Commissioner to administer oaths in the High Court of Chancery in England.

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* On Parliamentary Divorce, p. 480.

† Id. 509. The opinion of the Legislature, in past as in present times, upon this subject is also shewn by the fact, that in 1771 the Duke of Atholl, and in 1800 Lord Auckland, brought in bills to prevent such intermarriage, but they were rejected, after considerable discussion.

MARTIN COLLETT, Stanley Downton, Leonard Stanley, Gloucestershire, miller, Aug. 17 and Sept. 14 at 11, Bristol: Off. Ass. Miller; Sols. Edwards & Freston, Stroud; Abbott & Lucas, Bristol.—Pet. f. July 22.

WILLIAM DAVIS and WILLIAM HENRY DAVIS, Haverfordwest, drapers, (trading under the style or firm of William Davis & Son), Aug. 18 and Sept. 15 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan & Girling, Bristol; Ashurst & Co., 6, Old Jewry.—Pet. f. July 22.

JOSEPH FOOT, Plymouth, builder, Aug. 10 at 10, and Sept. 7 at 1, Plymouth: Off. Ass. Hirtzel; Sols. Whiteford & Co., Plymouth; Stogdon, Exeter.—Pet. f. Aug. 1.

WILLIAM THOMAS METCALFE, Great Driffield and Bridlington, Yorkshire, draper, Aug. 26 and Sept. 23 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Collinson, Great Driffield; England & Saxelbye, Hull.—Pet. d. July 31.

JOSEPH STEPHENSON, Winterton, Lincolnshire, innkeeper, Aug. 10 and Sept. 9 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Levett & Champney, Hull.—Pet. d. July 18.

WILLIAM OAKES, Sheffield, edge-tool manufacturer, Aug. 15 and Sept. 19 at 10, Sheffield: Off. Ass. Brewin; Sols. Gould & Son, Sheffield.—Pet. d. and f. July 31.

THOMAS CLAYTON and THOMAS SANDERS, Liverpool, slaters, (carrying on business under the style or firm of Clayton & Sanders), Aug. 14 and Sept. 4 at 11, Liverpool: Off. Ass. Bird; Sol. Ewer, Liverpool. — Pet. f. Aug. 1.

JOSEPH DANIEL, Manchester, builder, Aug. 20 and Sept. 10 at 12, Manchester: Off. Ass. Hernaman; Sol. Etty, Liverpool.—Pet. f. July 4.

WILLIAM WILD WRIGHT, Stockport, Cheshire, grocer, Aug. 14 and Sept. 4 at 12, Manchester: Off. Ass. Hernaman; Sol. Sutton, Manchester.—Pet. f. July 22.

HENRY SEPTIMUS WOLSTENCROFT, Middleton, Lancashire, logwood grinder, Aug. 14 and Sept. 4 at 12, Manchester: Off. Ass. Hernaman; Sol. Atherton, Manchester. —Pet. f. Aug. 1.

MEETINGS.

Sir Charles Fox and *John Henderson*, Smethwick, Staffordshire; New-street, Spring-gardens, Westminster; and Fore-street, Limehouse, Middlesex, engineers, Aug. 14 at half-past 10, Birmingham, pr. d.—*John Carless*, Gloucester, innkeeper, Sept. 10 at 11, Bristol, aud. ac.—*William W. Jones*, Portmadoc, Carnarvonshire, shipbuilder, Aug. 14 at 11, Liverpool, aud. ac. — *Edwin Mosley*, Hyde-street, Bloomsbury, goldbeater, Aug. 22 at 12, London, div.—*Wm. Schenk*, Royal Exchange-buildings, Cornhill, London; Port Wallace, Nova Scotia; and St. John's, Newfoundland, merchant, Aug. 25 at 2, London, div.—*Anthony Halliley* and *Richard Halliley*, Wigton, Cumberland, calico printers, Aug. 27 at half-past 11, Newcastle-upon-Tyne, fin. div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Charles Wing, North-end, Fulham, apothecary, Aug. 27 at half-past 11, London.—*Samuel Couldrey*, Stainsby-road, Limehouse, lime merchant, Aug. 27 at 12, London.—*George Gittins*, Hart-street, Grosvenor-square, ironmonger, Aug. 26 at 1, London.—*John Fleming*, High-street, Wapping, nautical instrument manufacturer, Aug. 26 at half-past 1, London. —*Thomas Reginald Kemp* and *George Clay*, Nicholas-lane, Lombard-street, bill brokers, Sept. 1 at 12, London.—*John Elphinstone Milton*, Nortons Lingfield, Surrey, vendor of paint, Aug. 26 at 2, London.—*Henry Remington*, Railway-place, Fenchurch-street, City, gas fitter, Sept. 1 at 2, London. —*Thomas James Thomas*, Cardiff, Glamorganshire, carpenter, Sept. 22 at 11, Bristol.—*William Threlfall*, Preston, Lancashire, iron merchant, Aug. 25 at 12, Manchester.—*Elijah Lawton*, Manchester, cotton-waste dealer, Aug. 26 at 12, Manchester. — *Wm. Andley*, Newcastle-under-Lyme, Staffordshire, auctioneer, Sept. 4 at 10, Birmingham.—*William Lindon*, Talk-o'-th'-hill, Staffordshire, miller, Oct. 5 at 10, Birmingham.—*John Pringle*, *John Thurman*, and *William Palmer*, Nottingham, lace manufacturers, Sept. 15 at half-past 10, Nottingham.—*William Tyers*, Nottingham, joiner, Sept. 15 at half-past 10, Nottingham.—*W. Keighley*, *Sugden Keighley*, and *Joseph Keighley*, Keighley, Yorkshire, worsted manufacturers, Aug. 31 at 11, Leeds.—*Thomas Rowe* and *John Walter Irenery*, Lincoln, ironmongers, Sept. 2 at 12, Kingston-upon-Hull.

To be granted, unless an appeal be duly entered.

George Constantin Franghiadi, Gresham-house, Old Broad-street, City, merchant.—*Charles Moody*, Portsea, saw maker. —*John Ados Pervanoglu*, Union-court, Old Broad-street, City, merchant.—*Mary Huddleston* and *Thomas Huddleston*, Berners-street, Oxford-street, cabinet makers.—*Samuel Tansley Cundy*, Belgrave Wharf, Lower Belgrave-place, Pimlico, statuary.—*George Baxter* and *George Toone*, Nottingham, dyers.—*John Jobson*, Derby, stove manufacturer.—*William Sheldon Withers*, Mansfield, Nottinghamshire, miller.—*Marmaduke Chaplin*, Kingston-upon-Hull, auctioneer.

PETITIONS ANNULLED.

John Palmer, Birmingham, pin maker.—*Richard Derbyshire*, Liverpool, provision merchant.

SCOTCH SEQUESTRATIONS.

John Brodie, Greenock, baker.—*Andrew Kerr*, Glasgow, coal agent.—*David M'Donald*, Deanhead, near Dunfermline, farmer.

The Supreme Court of New South Wales has appointed Alexander Chaffers, of 43, Bedford-row, Middlesex, solicitor, a commissioner of that court for taking affidavits and examining witnesses at law or in equity in all proceedings pending or to arise in the said court.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—George Matthews Arnold, of Gravesend, Kent, in and for the county of Kent; Joseph Inglesant, of Loughborough, Leicestershire, in and for the county of Leicester; Henry Dyte, of King's Bench-walk, Inner Temple, in and for the city of London, also in and for the county of Middlesex, and city and liberties of Westminster; Ellis Clowes, of King's Bench-walk, Inner Temple, in and for the city of London, also in and for the county of Middlesex, and city and liberties of Westminster; Peter John Thomas Pearse, of Frederick's-place, Old Jewry, in and for the city of London; Mark Henry Gregory, of Wax Chandlers' Hall, Gresham-street West, in and for the city of London, also in and for the county of Middlesex, and city and liberties of Westminster; Henry Rivington Hill, of Throgmorton-street, in and for the city of London; George Frederick Abraham, 5, Edward-street, Langham-place, in and for the county of Middlesex, also in and for the city and liberties of Westminster; Adam Prattinton Trow, of Cleobury Mortimer, Shropshire, in and for the county of Salop; Clement Mansfield Ingleby, of Birmingham, in and for the county of Warwick, also in and for the counties of Stafford and Worcester; John James, of Wrexham, Denbighshire, in and for the county of Denbigh, also in and for the county of Flint; John Loxley, Cheapside, in and for the city of London, also in and for the county of Middlesex, and city and liberties of Westminster; Thomas Lott, of Bow-lane, in and for the city of London; John Hunt Thursfield, of Wednesbury, Staffordshire, in and for the county of Stafford, also in and for the counties of Warwick, Salop, and Worcester; William Phillips, of York, in and for the city of York, and ainsty of the same city; and William Hubbard, of Rugby, Warwickshire, in and for the county of Warwick.

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Printed by HENRY HANSARD, at his Printing Office, in Parker Street, in the Parish of St. Giles-in-the-Fields, in the County of Middlesex; and Published at No. 3, CHANCERY LANE, in the Parish of St. Dunstan in the West, in the City of London, by HENRY SWEET, residing at No. 34, Porchester Terrace, Bayswater, in the County of Middlesex.—Saturday, August 8, 1857.

The Jurist

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GAZETTES.—FRIDAY, *Aug.* 7.

BANKRUPTS.

GEORGE THOMPSON, Barnsbury-street, Islington, and Chichester-place, Gray's-inn-road, corn dealer, Aug. 17 at 2, and Sept. 21 at 12, London: Off. Ass. Nicholson; Sol. Smith, 13, Tokenhouse-yard.—Pet. f. July 25.

JAMES WILSHER ALDRIDGE. Witham, Essex, corn merchant, Aug. 25 at half-past 11, and Sept. 29 at 1, London: Off. Ass. Edwards; Sols. Newman & Harper, Hadleigh, Suffolk; Pownall & Co., Staple-inn, London.—Pet. f. July 29.

EDMUND WHITE, Mark-lane, City; Phœnix-wharf, Stratford, Essex; and Globe-wharf, Wapping, Middlesex, corn merchant, (trading under the style or firm of M. White & Son), Aug. 20 at 11, and Sept. 12 at 12, London: Off. Ass. Whitmore; Sols. Messrs. Hilleary, 5, Fenchurch-buildings, Fenchurch-street.—Pet. f. Aug. 5.

ASHER STERN, George-street, Minories, and Great St. Helens, City, waterproofer, Aug. 20 at 1, and Sept. 12 at half-past 11, London: Off. Ass. Whitmore; Sols. Lloyd & Rule, 26, Milk-street, Cheapside.—Pet. f. July 28.

JOHN BANYARD, Shoreham, Sussex, brewer, Aug. 20 and Sept. 12 at 11, London: Off. Ass. Cannan; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry. —Pet. f. Aug. 5.

JOHN OVERTON HOBSON, Long Sutton, Lincolnshire, corn merchant, Aug. 18 and Sept. 15 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Coope, Nottingham. —Pet. d. Aug. 4.

JOHN FARR, Bristol, ironmonger, Aug. 19 and Sept. 22 at 11, Bristol: Off. Ass. Miller; Sol. Hinton, Bristol.—Pet. f. Aug. 3.

TIMOTHY WOOSTER, Cheltenham, seedsman, Aug. 24 and Sept. 21 at 11, Bristol: Off. Ass. Acraman; Sols. Marshall, Cheltenham; Abbott & Lucas, Bristol.—Pet. f. July 30.

SAMUEL BURGESS, Wharton, Cheshire, salt manufacturer, Aug. 19 and Sept. 14 at 11, Liverpool: Off. Ass. Morgan; Sol. Snowball, Liverpool.—Pet. f. July 30.

LEWIS DANCYGER, Newcastle-upon-Tyne, cabinet maker, Aug. 14 and Sept. 16 at half-past 11, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hodge & Harle, Newcastle-upon-Tyne.—Pet. f. July 30.

MEETINGS.

Henry Robertson, St. Michael's-alley, Cornhill, commission agent, Aug. 18 at 2, London, last ex.—*Jonathan Hanbury*, Matfield-green, Brenchley, Kent, grocer, Aug. 17 at 1, London, last ex.—*John H. Brown* the younger, Newcastle-upon-Tyne, commission merchant, Aug. 20 at 11, Newcastle-upon-Tyne, last ex.—*Lorens Theodor Wang*, Sunderland, timber merchant, Aug. 18 at 11, Newcastle-upon-Tyne, last ex.—*Wm. Ogilvie Cameron*, Camomile-street, City, export oilman, Aug. 19 at 1, London, aud. ac.—*Richard Walburn*, Howdon, near Crook, Durham, grocer, Aug. 19 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Thomas Henry Cogdon*, Sunderland, plumber, Aug. 19 at 12, Newcastle-upon-Tyne, aud. ac.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Charles Worters Broughton, Southampton-street, Covent-garden, tailor, Aug. 28 at 11, London.—*John Wilkinson*, Sittingbourne, Kent, railway contractor, Aug. 29 half-past 11, London.—*William Fletcher Roberts*, Moreton-in-the-Marsh, Gloucestershire, apothecary, Sept. 8 at 11, Bristol.—*John Carless*, Barton-terrace, Gloucestershire, innkeeper, Sept. 8 at 11, Bristol.—*James Nelson Knapp*, Newport, Monmouthshire, sailmaker, Sept. 8 at 11, Bristol.—*Edward Strange*, Swindon, Wiltshire, draper, Sept. 15 at 11, Bristol.—*Robert Swan Young*, West Hartlepool, Durham, tea dealer, Aug. 28 at half-past 12, Newcastle-upon-Tyne.—*Robert Atkinson*, Sunderland, draper, Aug. 28 at half-past 11, Newcastle-upon-Tyne.—*William Morris*, Liverpool, grocer, Aug. 31 at 11, Liverpool.—*Richard Rowlinson*, Liverpool, shipowner, Aug. 31 at 12, Liverpool.—*Edward Elsam*, Liverpool, merchant, Aug. 27 at 11, Liverpool.—*Richard Gomer*, Dudley, Worcestershire, dealer in fancy goods, Sept. 4 at 10, Birmingham.—*Wm. Reay*, Birmingham, provision dealer, Sept. 4 at 10, Birmingham.—*Charles Faulkner*, Birmingham, haberdasher, Aug. 28 at 10, Birmingham.—*Walter Lodge*, Almondbury and Huddersfield, Yorkshire, cloth manufacturer, Sept. 7 at 11, Leeds.

To be granted, unless an appeal be duly entered.

Henry Augustus Hope, West-street, Smithfield, City, and Oxford-road, Islington, Middlesex, hay salesman.—*Thomas Edward Irons*, Reading, Berkshire, timber dealer.—*John Watkins*, Crickhowell, Breconshire, shoemaker.—*Benjamin Chadwick*, Liverpool, chronometer maker.—*George Ward*, Liverpool, licensed victualler.—*George Pacey*, Liverpool and Birmingham, merchant.—*Thomas Carrier*, Wolverhampton, general dealer.—*Wm. John Gregory*, Leeds, bedding manufacturer.—*John George Thomas*, Illingworth, Halifax, Yorkshire, damask manufacturer.—*Charles Robinson*, Leeds, woollen-cloth merchant.—*Edward Teall* and *Reuben Teall*, Leeds, boat builders.—*Anthony Crowther* and *W. Crowther*, Huddersfield, Yorkshire, curriers.

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John Douglas, deceased, Glasgow, joiner.—*James Boyd*, Glasgow, commission merchant.—*James Kerr*, Glasgow, paint manufacturer.—*John Jamieson*, Edinburgh, wood engraver.—*Murray & Stuart*, Edinburgh, printers.

TUESDAY, *Aug.* 11.

BANKRUPTS.

HERMANN BUSCH, Coleman-street-buildings, Moorgate-street, City, merchant, (trading under the name or style of H. Busch & Co.), Aug. 24 at 12, and Sept. 28 at 11, London: Off. Ass. Nicholson; Sols. Marten & Co., Commercial-chambers, Mincing-lane.—Pet. f. June 27.

WILLIAM FORD WALLINGTON, Oxford, tailor, Aug. 20 at half-past 1, and Sept. 17 at 12, London: Off. Ass. Cannan; Sol. Ravenor, 5, Raymond-buildings, Gray's-inn. —Pet. f. Aug. 7.

JAMES JOHN STEPHENSON OUTTRIM, Oakley-terrace, Old Kent-road, Surrey, ladies' outfitter, Aug. 20 at half-past 11, and Sept. 18 at 11, London: Off. Ass. Cannan; Sols. Turner & Son, 8, Mount-place, Whitechapel-road.—Pet. f. Aug. 1.

JOHN FISHER GOUDE, Cheapside, City, apothecary, Aug. 20 at 12, and Sept. 17 at 11, London: Off. Ass. Whitmore; Sol. Chippindale, 10, King's Arms-yard.—Pet. f. Aug. 7.

WILLIAM CHICKEN, Barking-road, St. Leonard, Bromley, Middlesex, licensed victualler, Aug. 20 at 1, and Sept. 18 at half-past 11, London: Off. Ass. Whitmore; Sol. Goddard, 101, Wood-street, Cheapside.—Pet. f. Aug. 7.

ABRAHAM SCOTT, Colchester, carrier, Aug. 21 at 2, and Sept. 23 at 11, London: Off. Ass. Whitmore; Sol. Jones, Colchester, and 42, Southampton-buildings, Chancery-lane. —Pet. f. Aug. 11.

THOMAS HENRY MAY, Rathbone-place, Oxford-street, late of Little Britain, City, and Squires Mount, Hampstead-heath, Middlesex, baker, Aug. 25 at half-past 1, and Sept. 29 at 2, London: Off. Ass. Edwards; Sols. Young & Plews, 29, Mark-lane.—Pet. f. Aug. 10.

JOSEPH WRIGHT, Birmingham, and **JOHN SALISBURY**, Ashby-de-la-Zouch, Leicestershire, ironfounders, (carrying on business at Burton-upon-Trent, Staffordshire, under the style or firm of Wright, Salisbury, & Co.), Aug. 21 and Sept. 11 at 10, Birmingham: Off. Ass. Christie; Sols. Duignan & Hemmant, Walsall.—Pet. d. July 31.

THOMAS CLAPHAM, Headingley, Leeds, Yorkshire, nurseryman, Aug. 25 and Sept. 25 at 11, Leeds: Off. Ass. Hope; Sol. Bond & Barwick, Leeds.—Pet. d. Aug. 4.

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THE JURIST.

LONDON, AUGUST 15, 1857.

Three years after Tribonian had received the command of the Emperor Justinian to commence the great undertaking of digesting the Roman laws, then scattered over upwards of two thousand treatises, and containing, it is said, three millions of lines, that illustrious jurist and his colleagues had completed their arduous task, and the Pandects or Digest—that immense collection of written reason which still forms the basis of European law—sprang into existence, a lasting monument of their untiring industry and their profound and scientific knowledge of jurisprudence. Thirteen centuries later in the history of the world the wealthy and highly-civilised country of Great Britain began to find the inconvenience of the vast accumulation of the acts of her Legislature—many obsolete, many repealed or partially repealed, but filling, in no slight confusion, upwards of forty ponderous volumes.

This attracted the attention of the Lord High Chancellor, Lord Cranworth, who in the year 1853, associating with himself in the task of consolidating the statutes Mr. Bellenden Ker and other colleagues as commissioners, promised to the country at no distant period the blessings of a Victorian code. As yet, however, not a single consolidated statute resulting from the promise has received the sanction of the Legislature. Let us endeavour to account for this delay—this failure in carrying out a most useful project—and we may afterwards make some suggestions which, in our opinion, may yet lead to its success.

The mode in which the commissioners were brought together in the commission will be best shewn by the language of Lord Cranworth himself. "In order," said his Lordship, addressing the House of Lords, "that he might accomplish the object of consolidating the statute law, the course which he had chalked out for himself had been *to apply in the first instance to Mr. Bellenden Ker*, who was, at least for all practical purposes, the only surviving member of the commission which had been appointed by Lord Brougham to effect a consolidation of both the statute and the criminal law. That commission had proceeded with the criminal, but not with the statute, law, and they *had made one report on the subject*. He had a conference with Mr. Ker, and it appeared to him (the Lord Chancellor) that the best step that could be taken was to *induce* that gentleman to continue his services as a commissioner for the consolidation of the statute law, while he should have to assist him, in the discharge of his duties, four such gentlemen as might appear to be best qualified for the task." (Hansard, vol. 129, 3rd series, 1811.

With reference to the cost of the undertaking, and to the engagement of Mr. Bellenden Ker's duly qualified assistants, his Lordship upon another occasion, addressing the same audience, says, "The expense would *be extremely small;* and he believed he had secured the services of four of the best gentlemen he could hear of. . . . . He had secured their services, *at the expense of a very few hundred pounds for each of them*, for a year. He should expect that they should devote their *whole time to the work*." (Hansard, vol. 125, 3rd series, 294, 295).

The four gentlemen alluded to, whose valuable services were secured to the country at so cheap a rate, were Mr. Coode, Mr. Chisholm Anstey, Mr. J. Warrington Rogers, and Mr. Brickdale.

The history of this commission is short; it existed for one year; the four assistant commissioners drew bills which have never become acts; and Mr. Bellenden Ker, as might à priori have been expected from his long connexion with the former commission, produced Reports, printed by order of Parliament and at the expense of the country.

The next step seems to have been to dispense with the services of three of the commissioners, one of whom was relegated as Attorney-General to Tasmania; another in the same capacity to Hong Kong; while the other seems to have subsided into private life. If these gentlemen were well qualified for their task, it is to be regretted that the country has lost the benefit of the experience they must have gained during their tenure of office. If they were not well qualified, it does little credit to the discernment of Lord Cranworth that three out of the four assistant commissioners should have disappointed his expectations. Out of the debris of the first commission emerged Mr. Bellenden Ker and Mr. Brickdale, and a new commission was issued on the 15th December, 1854, to the Lord Chancellor, (Lord Cranworth), Lords Lyndhurst, Brougham, Wrottesley, and Campbell, C. J., Sir J. Jervis, C. J., Sir F. Pollock, C. B., Sir J. Parke, B., the Lord Advocate, (James Moncreif), Messrs. Walpole and Napier, Sir W. Page Wood, V. C., the Attorney-General, (Sir A. J. E. Cockburn), the Solicitor-General, (Sir R. Bethell), the Attorney-General of Ireland, (A. Brewster), the Solicitor-General of Ireland, (W. Keogh), the Solicitor-General of Scotland, (James Crawford), Mr. Coulson, and Mr. Bellenden Ker. To these names have been added, by a subsequent commission, those of another Solicitor-General of Scotland, (Mr. Maitland), Mr. Matthew Talbot Baines, and Sir Fitzroy Kelly. Of this commission Mr. Bellenden Ker was the only paid commissioner, and Mr. Brickdale was the paid secretary.

The mode in which the commission appears now to proceed upon its task is by enlisting in its service some twenty gentlemen to consolidate different branches of the statute law, at a rate of remuneration corresponding apparently with the very economical views of the Lord Chancellor when he selected the members of the first commission.

We consider the constitution of the last two commissions to be radically bad. No one who sees the names which precede that of Mr. Bellenden Ker but must be aware that the advanced age of some, and the already almost overpowering official duties of others, entirely preclude their taking any serious part in the laborious task of the consolidation of our statute law. The connexion, however, of their names with the commission has this effect—it diminishes the responsibility of the paid commissioner; and if any credit is due to the gentlemen who really consolidate the statutes, it will be divided with, or rather it will be engrossed by, those who lend their names, if not their services, to the commission.

Again: if any independent member in Parliament should complain that the commission does not fulfil the expectations of the country, and is in fact doing little or nothing, those illustrious individuals with whose names it is ornamented, whatever may be their own private feelings upon the subject, can scarcely throw blame upon the commission of which they are a part, and may even be tempted to describe in glowing colours the benefits conferred upon the country by the employment of the paid commissioner, Mr. Bellenden Ker.

One reason why so little progress has been made in so considerable a time appears to be this, that really no definite or fixed plan of consolidation has been adopted. This was strongly insisted upon by more than one eminent member of the commission, but their advice seems to have been disregarded; every thing seems to have been merely tentative, with the vague hope that eventually some scheme might turn up—that the commissioners, destitute of any compass, might perchance, some time or other, drift in the right direction.

The consolidation of the statute law of this country is doubtless a great work, and, if well done, would confer inestimable benefits upon the country. It should, therefore, be undertaken with a corresponding spirit; it should be entrusted to men of the highest ability, of tried industry, and in whom the country and the Legislature would place implicit confidence. The real workmen should bear the responsibility, and solely receive the honour which they would deservedly win by the completion of a great undertaking: it should not be shared by those who give their countenance, but not their assistance. To get the services of such men they should be paid liberally, and this in the end would be found true economy. It is discreditable to a great and wealthy country, while spending upwards of 3,000,000*l.* for the palace in which their Parliament legislates, to refuse a sum sufficient adequately to remunerate those men who would reduce to order the chaotic legislation of upwards of six hundred years. If this course had been adopted four years ago, the work by this time might have been done; but if we go on retaining the services of paid commissioners merely because they belonged to a commission which ended only in a report, or secure the services of duly qualified assistants "at the expense of a few hundred pounds each of them for a year," our statutes will accumulate, our statute-book will increase in bulk, but the consolidation of the statutes will be no more advanced than it is now; that is to say, it will be in the same position as it was when the first commission was issued. What have these commissioners done? Their labours commenced in April, 1853; since that time more than four years have rolled away, (upwards of a year longer than sufficed to produce the Pandects), but our modern Tribonian cannot point to a single act produced by Mr. Ker or the commissions. They have, it is true, this year laid before Parliament some six bills upon one branch of the statute law, inclusive of one intituled "An Act to consolidate the Statute Law of England relating to Deer, Game, and Rabbits." "Parturiunt montes nascetur," &c.; but for this event it is to be feared that we must wait until some future session.

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Mr. Baron Bramwell was examined before the commissioners appointed to inquire into the arrangements for transacting judicial business, and his Lordship's account of the heavy labours pertaining to his office affords a conclusive answer to any suggestions for reducing the number of our judges. Amidst his other duties, the learned judge holds that of reading reports to be a very important one. "Lord Wensleydale," he says, "told me, and my own judgment goes with it, that no judge can do his duty who does not read the reports . . . . When I was at the Bar I did not read them[*]; and I did not pretend to read them, and my clients knew that I did not read them, and they took me for better for worse, with notice. But I cannot serve the public in that way, and I read them now diligently and faithfully, and they require time. I do not mean to say that the reading of them is laborious, because, from long habit and inclination, I do not say but that the reading of the reports occasionally is rather an amusing thing." To the question, "Do you read all the multifarious reports, namely, the Jurist, the Law Journal, the Justice of the Peace, and the Law Times?" the learned judge answered, "No; I read what I suppose you may call the orthodox reports of the three common-law courts, namely, Ellis & Blackburn, the Common Bench Reports, and Hurlston & Norman. I read the Law Journal Reports, equity and common law, and I read the Jurist Reports. . . . . It may be asked why does one read the same thing in duplicate? My answer to that is, that if I distinctly comprehend the case when I read it, I do not trouble myself to read it again; but it very frequently happens that you find varieties of expression in the judgments, where they have not been considered and written, of such a character that it is quite desirable that you should read both reports. You may find that one reporter is struck by one remark, which he puts down, and while writing it, not being an accomplished short-hand writer, something escapes his attention, which the other puts down."

We are pleased to learn that one, who can give so good a reason for the existence of "heterodox" reports, devotes a portion of his valuable time to a perusal of those which appear in the pages of The Jurist.

PUBLIC EXAMINATION OF STUDENTS.

Michaelmas Term, 1857.

The Council of Legal Education have approved of the following rules for the public examination of the students.

The attention of the students is requested to the following rules of the Inns of Court:—

"As an inducement to students to propose themselves for examination, studentships shall be founded of fifty guineas per annum each, to continue for a period of three years, and one such studentship shall be conferred on the most distinguished student at each public examination; and further, the examiners shall select and certify the names of three other students who shall have passed the next best examinations, and the Inns of Court to which such students belong may, if desired, dispense with any terms, not exceeding two, that may remain to be kept by such students previously to their being called to the Bar. Provided that the examiners shall not be obliged to confer or grant any studentship or certificate unless they shall be of opinion that the examination of the students they select has been such as entitles them thereto."

"At every call to the Bar those students who have passed a public examination, and either obtained a studentship or a certificate of honour, shall take rank in seniority over all other students who shall be called on the same day."

"No student shall be eligible to be called to the Bar who shall not either have attended during one whole year the lectures of two of the Readers, or have satisfactorily passed a public examination."

Rules for the Public Examination of Candidates for Honours, or Certificates entitling Students to be called to the Bar.

An examination will be held in next Michaelmas Term, to which a student of any of the Inns of Court, who is desirous of becoming a candidate for a studentship or honours, or of obtaining a certificate of fitness for being called to the Bar, will be admissible.

Each student proposing to submit himself for examination will be required to enter his name at the treasurer's office of the Inn of Court to which he belongs on or before Thursday, the 22nd day of October next; and he will further be required to state in writing whether his object in offering himself for examination is to compete for a studentship or other honourable distinction, or whether he is merely desirous of obtaining a certificate preliminary to a call to the Bar.

The examination will commence on Thursday, the 29th day of October next, and will be continued on the Friday and Saturday following.

It will take place in the Benchers' Reading-room of Lincoln's-inn; and the doors will be closed ten minutes after the time appointed for the commencement of the examination.

The examination by printed questions will be conducted in the following order:—

Thursday morning, the 29th October, at half-past nine, on Constitutional Law and Legal History; in the afternoon, at half-past one, on Equity.

Friday morning, the 30th October, at half-past nine, on Common Law; in the afternoon, at half-past one, on the Law of Real Property, &c.

Saturday morning, the 31st October, at half-past nine, on Jurisprudence and the Civil Law; in the afternoon, at half-past one, a paper will be given to the students including questions bearing upon all the foregoing subjects of examination.

The oral examination will be conducted in the same order, during the same hours, and on the same subjects, as those already marked out for the examination by printed questions, except that on Saturday afternoon there will be no oral examination.

The oral examination of each student will be conducted apart from the other students; and the character of that examination will vary, according as the student is a candidate for honours or a studentship, or desires simply to obtain a certificate.

The oral examination and printed questions will be founded on the books below mentioned, regard being had, however, to the particular object with a view to which the student presents himself for examination.

In determining the question, whether a student has passed the examination in such a manner as to entitle him to be called to the Bar, the examiners will principally have regard to the general knowledge of law and jurisprudence which he has displayed.

A student may present himself at any number of examinations, until he shall have obtained a certificate.

Any student who shall obtain a certificate may present himself a second time for examination as a candidate for the studentship, but only at one of the three examinations immediately succeeding that at which he shall have obtained such certificate; provided, that if any student so presenting himself shall not succeed in obtaining the studentship, his name shall not appear in the list.

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[*] His Lordship doubtless refers to the time when he was one of the leaders of the Bar in full practice. At that prosperous period of a lawyer's career the demands upon his time and attention are so incessant that he finds it very difficult to *read* reports systematically; but then he is constantly in the midst of the arguments, trials, and judgments which are reported, is personally engaged in the more important, and is daily hearing of moot and decided points. Let no one, who has not attained to so distinguished a position at the Bar, think that he can dispense with a careful study and noting of reports.

Students who have kept more than eleven terms shall not be admitted to an examination for the studentship.

The Reader on Constitutional Law and Legal History proposes to examine on the following subjects:—

He will expect the candidates for honours in the ensuing examination to possess a general knowledge of the leading events of English History.

He will expect them to be thoroughly acquainted with the Chapters in Hallam's Constitutional History which treat of the Reigns of Elizabeth, of the Stuarts, of King William, and Queen Anne; with the first volume of Lord Clarendon; with May's History; with so much of Rapin and Tindal, or Belsham, or Macaulay and Somerville as relates to those Reigns; and with Bishop Burnet's Memoirs of his own Times.

He will expect them to be acquainted with the History of the Law of Real Property as given in Lord St. Leonards' Preface to Gilbert on Uses, and the Law of Treason and the Law relating to the Press, and with the most important State Trials during the time that has been mentioned.

The candidates for a pass will be required to answer general questions in English History, and to be well acquainted with the History of the Reigns of Elizabeth, Charles I, and Charles II, with the Events of the Revolution, and with the Reign of Anne.

They will be expected also to shew a competent knowledge of the State Trials during the Reigns of the Stuarts and Queen Anne.

The Reader on Equity proposes to examine in the following books:—

1. Smith's Manual of Equity Jurisprudence. Mitford on the Pleadings in the Court of Chancery—Introduction; c. 1, ss. 1, 2; c. 2, s. 1; c. 2, s. 2, part 1, (the first three pages); c. 2, s. 2, part 2, (the first two pages); c. 2, s. 2, part 3; c. 3. The Act for the Improvement of the Jurisdiction of Equity, 15 & 16 Vict. c. 86.

2. The Cases and Notes contained in the first volume of White & Tudor's Leading Cases; and the cases of *Wilcocks* v. *Wilcocks*, *Blandy* v. *Widmore*, *Howe* v. *The Earl of Dartmouth*, *Aldrich* v. *Cooper*, *Silk* v. *Prime*, *Row* v. *Dawson*, and *Rees* v. *Berrington*, in the second volume, with the Notes on those cases.

Candidates for certificates of fitness to be called to the Bar will be expected to be well acquainted with the books mentioned in the first of the above classes.

Candidates for a studentship or honours will be examined in the books mentioned in the two classes.

The Reader on the Law of Real Property proposes to examine in the following books and subjects:—

1. Joshua Williams on the Law of Real Property; the same author on Personal Property.

2. The stat. 8 & 9 Vict. c. 106.

3. The Bankrupt-law Consolidation Act, 1849, (12 & 13 Vict. c. 106), Divisions 2, 3, and 6, and the Notes to those Divisions in Shelford's Work on Bankruptcy.

4. The Lien of a Vendor for Unpaid Purchase Money—*Mackreth* v. *Symmons*, (15 Ves. 329), and the Notes to that case; White & Tudor's Leading Equity Cases, 194—222.

5. The Law of Escheat and Forfeiture—*The Attorney-General* v. *Sir George Sands*, (Hardr. 488), and the Notes to that case; Tudor's Leading Cases in Conveyancing, 617—641.

Candidates for honours will be examined in all the foregoing books and subjects, and candidates for a certificate in those under heads 1, 2, and 3.

The Reader on Jurisprudence and the Civil Law proposes to examine candidates for honours in the following subjects:—

1. The Elements of the Roman Law of Conventional Obligations—Mackeldey, Systema Juris Romani Hodie Usitati, lib. 2, s. 2, c. 1, (ed. of 1847, pp. 362—428).

2. Principles of General Jurisprudence with reference to Rights and Duties, their relation to each other, and their modifications—Lindley's Introduction to the Study of Jurisprudence, part 2, c. 1, pp. 52—98.

3. Absolute International Rights of States—Wheaton's Elements of International Law, part 2.

Candidates for a certificate will be examined in—

1. The Institutes of Justinian, book 3, (beginning with title 13), and book 4, together with the Notes in Sandars's edition.

2. Absolute International Rights of States—Wheaton's Elements of International Law, part 2.

The Reader on Common Law proposes to examine in the following books and subjects:—

Candidates for a pass certificate will be expected to be familiar with—

1. The Elements of Mercantile Law, so far as exhibited in Smith's Mercantile Law, (5th ed., book 1, omitting c. 3, and book 3, c. 1).

2. The Jurisdiction of, and generally the Mode of Procedure in, the County Court, (which may be read in any Treatise on County Courts published since the passing of the stat. 19 & 20 Vict. c. 108).

3. Criminal Law, in connexion with Offences ordinarily tried at Quarter Sessions; and part 1, cc. 1 and 2, of Paley on Convictions, 4th ed., concerning the Jurisdiction of Justices of the Peace, and Proceedings before them preliminary to Conviction.

Candidates for the studentship and honours will be examined in the above-mentioned books and subjects, and also in—

4. The Principles of the Law of Evidence, so far as explained by Mr. Best in his treatise on that subject, 2nd ed., part 1, cc. 1 and 2; part 3, book 1, c. 2.

5. The following cases from vol. 1 of Smith's Leading Cases, 4th ed., with the Notes thereto:—*Armory* v. *Delamirie*, *Ashby* v. *White*, *Coggs* v. *Bernard*, *Collins* v. *Blantern*, and *Lampleigh* v. *Brathwait*.

6. The Common-law Procedure Act, 1852, (15 & 16 Vict. c. 76), ss. 1—33.

By order of the Council,
Richard Bethell, Chairman.

Council Chamber, Lincoln's Inn,
August 4, 1857.

PROSPECTUS OF THE LECTURES

To be delivered during the ensuing Michaelmas Educational Term by the several Readers appointed by the Inns of Court.

Constitutional Law and Legal History.

The Public Lectures to be delivered by the Reader on Constitutional Law and Legal History will comprise the following subjects:—

The Reigns of George I and George II—The Progress of our Jurisprudence, the State Trials, and the Proceedings of Parliament. The Reader will then trace the Origin and Progress of our Constitution before the Reign of Henry VII.

In his Private Classes the Reader will follow the same course.

Books:—Tindal or Belsham's History of George I and George II—Kerr's edition of Blackstone's Commentaries, vols. 1 and 4—Annual Register during the Period—Hallam's Constitutional History—Statute Book—Bracton's Treatise—Matthew Paris's Reign of John—Reeves's History of the English Law, vol. 1—Sullivan's Lectures—Fortescue de laudibus Legum Angliæ. (Edition by Amos).

Equity.

The Reader on Equity proposes to deliver, during the ensuing Educational Term, a Course of Six Lectures:—

I.—On the Sources of English Law, the Origin of the Superior Courts, and the Causes which influenced their System of Procedure.

II.—The History of the Court of Chancery.

III.—The Principles of Equity Pleading.

IV.—The Jurisdiction of the Court over Infants.

The Reader on Equity proposes to form two Private Classes, a Senior and Junior, according to the amount of preliminary knowledge possessed by the Students; using, in the Junior, Smith's Manual of Equity Jurisprudence as a text-book; and in the Senior, examining the principal branches of Equitable Jurisdiction, with a frequent reference to cases, and also commencing the perusal of Lord Redesdale's Treatise on Equity Pleading.

Law of Real Property, &c.

The Reader on the Law of Real Property proposes to deliver, in the ensuing Educational Term, a Course of Six Public Lectures on the following subjects:—

I.—The Devolution and Transmission of Powers and Trusts for Sale.

II.—The Effect of Disclaimer by Trustees for Sale, and Donees of Powers of Sale.

III.—Conveyances and Assignments by Debtors to Trustees for the benefit of Creditors.

IV.—The Bankruptcy and Insolvency Acts, so far as they affect the Law of Real Property.

In his Private Classes the Reader on Real Property Law will refer more particularly to the cases cited in the Public Lectures. He will also discuss the nature and quality of the different Estates in Land and the Common Forms of Assurance.

Jurisprudence and the Civil Law.

The Reader on Jurisprudence and the Civil Law proposes to deliver, in the ensuing Educational Term, a Course of Six Public Lectures on—

The Roman Law of Testaments and Legacies. He will treat incidentally of the Early History of Wills and Testamentary Succession, as disclosed in the Ancient Roman and other Primitive Systems of Law—the successive steps by which a will obtained its present form and characteristics—the relation of Testamentary to Intestate Succession—the nature of Universal Successions, and their connexion with other forms of Succession—and the principles which Modern Jurisprudence has derived from the Roman conceptions of a will, an inheritance, and a legacy.

The Reader will form a Junior Class, with which he will read the Commentaries of Gaius. The course will be strictly elementary, and the whole ground covered by the Roman Institutional Treatises will be traversed in the educational year. The Reader will also, if possible, form a Senior Class, with which he will read the Systema Juris Romani Hodie Usitati of Mackeldey, beginning with the section on Obligations.

Common Law.

The Reader on Common Law proposes to deliver, during the Educational Term, Six Public Lectures, as under:—

Lectures I and II will indicate the method to be pursued in studying Law as a Science; will trace out its leading departments and subdivisions, and especially inquire respecting the importance of a knowledge of cases, and how they should be read and fixed in the memory.

Lectures III and IV will be devoted to an examination of various elementary principles of our Common Law, and of the mode of applying them in practice.

Lectures V and VI will specify the Tribunals by which our Common Law is administered, and the limits of their respective jurisdictions.

With his Private Class the Reader will principally be engaged with the subjects included in Lectures IV—VI of the above Programme, referring as well to decided cases as to the following books:—Smith's Leading Cases, 4th ed.; Warren's Introduction to Law Studies; and Broom's Commentaries on the Common Law.

By order of the Council,
(Signed) Richard Bethell, Chairman.
Council Chamber, Lincoln's Inn,
August 4, 1857.

HEARSAY EVIDENCE IN SCOTLAND.

Although hearsay evidence of almost every description was admitted on the trial of Madeleine Smith, the pocket-book of the deceased was, after objection and argument, rejected by a majority of the learned judges who presided on that occasion. It is somewhat difficult to appreciate the principle upon which the distinction rests, but it will be seen that the judges opposed to its admission proceed upon reasoning which does not apply to hearsay transmitted through a living witness. We give the arguments and judgments upon this point as we find them in the report of the trial by Mr. Morison, advocate:—

"*The Lord Advocate* then proposed to give in the deceased's pocket-book, and to have the entries in it read. The Court had decided, when he offered it before, that then a sufficient foundation had not been laid; but he thought that objection could not be made now. The handwriting of the entries was proved to have been L'Angelier's, and various circumstances had been proved, in the course of the evidence already adduced, to have occurred on the very days under date of which they were entered in this book. He therefore submitted that these entries were statements by himself of what he did on these days, and that the pocket-book should be received.

"Mr. *Young* argued that the book was irregularly kept; that the entry of the occurrence on the 22nd had been proved by the several witnesses to be inaccurate; and that though some of the matters entered under dates did occur under those dates, there was no guarantie that they were all so. Instead of being a memorandum-book regularly kept, the entries were the exceptions. So far as he had been able to discover, there was no case in which such a book had been received in evidence of facts mentioned in it. He submitted that the present was not a case of the kind in which this Court should begin the admission of such evidence.

"*The Solicitor-General* said that he knew of no principle in the law of evidence which excluded a document written by a deceased person from being used as evidence in such a case, and contended that it was good secondary evidence. It was a statement by L'Angelier that a certain circumstance happened on a certain day. Their Lordships would not have excluded the evidence had it been deponed to by a third party who had heard the deceased make the statement; and though he could not give a precedent precisely similar, he thought the whole principle of secondary evidence was in favour of its admissibility.

"*The Dean of Faculty* was also heard on the point. He contended that no precedent could be shewn in which the ordinary pocket memorandum of a deceased person had been used for the purposes sought in this case. There was no evidence to prove that the dates were correctly entered; and in fact the book did not profess to be a regular diary. The journal was begun in 1857; the deceased lived eighty or eighty-one days in that year, and the number of entries was only twenty-six, and for upwards of a week prior to his death it had ceased to be his journal at all. Besides, even amongst these few entries there were instances to prove the loose and careless manner in which they were sometimes made. The Solicitor-General had said that it was good secondary or hearsay evidence; but it appeared to him the present was an attempt to apply secondary evidence in a manner hitherto unknown. He had always understood that the principle by which secondary evidence was admitted was subject to this proviso—that a statement made for one purpose could not be received for another—that a statement made by a party, even on oath, upon one subject was not receivable for another purpose. To shew further the incorrectness of the entries, the Dean referred to one under date the 5th of March—'Saw Mimi; gave her a note, and received one;' which was contradicted by letter 119, which had been put in evidence on the ground that the prisoner's letter of the 5th of March was an answer to it; whereas, according to the entry, they were exchanged one for another.

"THE LORD JUSTICE CLERK, after alluding to the great importance of the matter, said—The admission of hearsay evidence is an established rule in the law of Scotland, but under restrictions and conditions which go in many instances to the entire rejection of the evidence. What is now to be proposed is this—to produce for the consideration of the jury certain memoranda or jottings made by the deceased, in which certain things are said to have been done, which go directly to the vital part of this charge. The Dean has felt that so strongly that he did not scruple to state what was the purport of one of the entries; but we must take care that the rules of evidence are not relaxed merely because it appears that the matter is of the highest importance in the case. Before evidence can be received and allowed to go to the jury, it must be evidence competent to be tendered. It will not do to take a half view of the case, and think it material that such a thing should go to the jury as evidence if it is not legally admissible against the prisoner. That is the rule also in civil cases. It is of importance, then, in considering whether the evidence is admissible—indeed I should say it was vitally important—to consider and ascertain in what circumstances, if possible from what motive, and at what period of the transactions going on at this time, these entries were made. Now, it is a most remarkable fact that there is no entry regarding the prisoner, or circumstances connected with the prisoner, before the 11th February; while the purpose on her part of breaking off this engagement, and of demanding the letters, had been communicated to the deceased, and his purpose and resolution not to give up the letters, and to keep her to the engagement, appeared to have been made known on the 13th; and his purpose in writing these entries obviously was to endeavour to strengthen his hold upon the prisoner, not only by refusing to give up the letters at that time, but afterwards to object to their interviews and communications, so as to endeavour to effect his object in preventing the marriage, and to entice her into giving up the engagement at once. I make this observation not merely with reference to the weight and credibility of those entries, but with reference to their admissibility. In the case of hearsay evidence we can ascertain from the witness a statement of all the circumstances, and all the motives connected with the statement being made by the deceased. What staggered me a good deal was—I put it to my mind thus:—Supposing an entry is found in a diary, 'I met A. B., and arranged to meet A. B. at such a place to-morrow night,' and at that place he was found murdered. It might be admissible against the panel charged with murder, that the statement was of a kind to be left to the jury to say whether his being murdered at this particular place was not the result of that appointment. I was a good deal affected, too—although I own the law is generally very strong on this point—by what the Lord Advocate so forcibly stated. Supposing that in this book there was found an entry that this man had purchased arsenic, would that not have been available in favour of the prisoner? I think there is an objection, without giving a different opinion on the point, which may arise, and that is, it may be also evidence against the deceased. One illustration was suggested to my mind by a person whose authority and experience are higher than any of our own. Take an action of divorce against the wife where the paramour was dead, and an entry is found in any diary of his that he had enjoyed the embraces of this woman in her husband's absence—could this diary be produced against the wife? I say no. What we are asked here to do is a thing altogether without example or precedent. No traces or indication of such a proceeding are to be found in any book, that a memorandum made by the deceased shall be proof against the panel in a charge of murder. I am unable to admit such evidence. One cannot tell how many documents may exist, and be found in the repositories of the deceased. I have a dim recollection of a case in 1808, the trial of a man of the name of Patch for murdering a man named Page, and in which a letter of the murdered man, prior to his death, was produced, but I have not found that it was allowed to be admitted. The point is perfectly new, and I am certainly of opinion that it should not be admitted.

"Lord HANDYSIDE said—We are asked to receive, as evidence for the Crown, a pocket-book containing an almanack and diary for 1857, in which certain entries are made opposite to certain days of the week from the 11th of February to the 14th of March. I mention these extreme dates, first, because they include the period of the whole of the entries in the diary—the entries not beginning with the commencement of the year; and, secondly, because the period during which the entries were made has reference only to the first and second charges in the indictment. The third charge is subsequent to the entries ceasing to be made. The special point is, whether the entries of certain dates—two in number—are to be read to make evidence for the prosecution as regards the first and second charges in the indictment. The whole of the entries have been written with a lead pencil. I notice this to make the observation that ink and penmanship afford to a certain degree the means of ascertaining whether the entries were made at the time opposite to which they are written. When all the entries are in pencil there can be no clue as to the time when the entries are in point of fact made, or that the original entries have not been expunged, and others substituted in their place, whether this be in correction of memory or with the purpose and design of imposition. But waiving this peculiarity in the present case, the point to be determined is, whether the entries of a deceased person set forth as having occurred at particular dates, and connected with the name of an individual, are admissible as evidence to support a criminal charge. So far as my knowledge goes, this is a new point. We have received no assistance from the Bar by reference to any authority; no case has been stated to us bearing upon the subject; and having taken some pains myself to search for authority and precedent, I have been unsuccessful in finding either. I think the question is one of great difficulty—at least I have found it to be so. Had the writer of the memoranda been living, they could not have been held to be evidence. They might have been used in the witness-box to refresh the memory of the witness. What would be required would be the oath of the witness, and his evidence would be taken irrespective of any weight being put upon the memoranda. It is the oath of the witness and the authority of his statement in the box that the law requires; but if the writer has died, is this circumstance to make such memoranda thenceforward admissible as evidence? There is no check upon the accuracy of these statements, whether arising from innocent mistakes or from prejudice. I do not say that they are supposed to be false, for the idea is repugnant, from the consideration that it would be idle and fanciful to say that such memoranda would be kept by the writer; but it is quite conceivable that statements may be made wholly imaginary, with a view to the subsequent injury of the party; and could it be admissible to take as evidence such a diary, which might be made a baneful instrument of calumny and accusation? I speak just now of private memoranda, diaries, and journals taken in the abstract. As to other writings of a deceased person, such as letters, I do not say that they may not be admissible as evidence after death, for they had been communicated to at least one person. It was contended that the principle of hearsay evidence was admitted to extend to documents written by a deceased person. Words spoken to another are subject to further inquiry by the party spoken to, as to the meaning of the speaker, and a sort of cross-examination made as to the matter which was communicated to him; and all these things may be brought out in the examination of the witness who comes into court and gives us hearsay evidence. Now, a mere writing in the way of memoranda or an entry in a pocket-book, in the sole custody of the writer till his death, cannot be subjected to any such tests. It may be an idle piece of writing, or it may be unfounded suspicion or ambiguous charges preferred by hostile and vindictive feelings in a moody and spiteful mind. This view impressed me strongly against the idea of admitting a journal or diary as evidence to support the prosecution. I think the question before us must be decided as a general point. As such I take it up. If I were to take into account the peculiar circumstances of this case, I see much, perhaps, to vindicate the Court in its reception as evidence, and there is to be found in the letters which have been already read in evidence much to give corroboration and verification to some at least of the entries in the pocket-book; but I feel compelled to close my mind against such considerations, and look, above all, to a general and therefore safe rule by which to be guided. I have come, therefore, to the conclusion that the production of the diary as evidence in the case, in support of the first and second charges, ought to be rejected.

"Lord Ivory said, that, like their Lordships, he had given his most anxious, serious, and unremitting consideration to this subject. He had found little or nothing in the way of authority certainly; but, judging by the abstract rules of evidence applied to other cases, he could find no principle to exclude the document. He therefore felt himself totally unable to come to the conclusion that this evidence should be excluded from the jury. He would content himself with simply intimating his dissent. It appeared to him it was admissible evidence, and it would be for the jury to consider what was the value of that evidence."

ELIZA FENNING'S CASE.

The following letter appeared in the *Times* of the 5th inst.:—

Sir,—In the late trial at Edinburgh allusion was made by the Dean of Faculty to the case of *Eliza Fenning*. He mentioned it as illustrating the danger of trusting to circumstantial evidence, and assumed that the verdict had since been proved to be a wrongful one. He is not the first person who has done this; but his position and character give a weight to his statements which does not belong to the writers who have written of late years on the subject, and have made free use of the name of this unhappy woman; and I am induced, therefore, to beg from you the insertion of the following particulars:—

My late uncle, Mr. William Brodie Gurney, short-hand writer to the Houses of Parliament, was well known to a wide circle of friends, and to many of our leading public men, as a man of the strictest integrity. His accuracy, all who were familiar with him can testify, was perfectly unimpeachable. To dress up a story for effect, or to take a side and support it by doubtful statements, was as foreign to his character as robbery or murder. I happened to be spending an evening with him a year or two before his death, and he produced a little book of anecdotes and conversations, in which things worth remembering had been jotted down for his own use, or for those who might come after him. I think he first referred to it for the sake of a remarkable conversation about Dr. Dodd's execution; but, having the book in his hand, he said—"Oh! here is something that will interest you about Eliza Fenning. You have heard, I dare say, that a person of that name was executed for poisoning (or attempting to poison, I forget which) the family with whom she lived as servant, and that a good deal of popular feeling was excited on the subject, many persons being persuaded that she was wrongfully convicted, because she maintained her innocence in prison and on her way to the scaffold." He then read the underwritten statement. I dare say Eliza Fenning will live in history as one unrighteously doomed to death notwithstanding, and that writers who are very capriciously tender of human life will still argue from her case to their conclusion, that poisoners should not be convicted unless some one swears in the witness-box that he saw the poison bought, mixed, and given by the accused party. But, at any rate, it is desirable that the candid and reasonable portion of the public, and especially men of influence and authority like the Dean of Faculty, should know how the case really stands—namely, that Eliza Fenning did confess her guilt in prison to a minister of the Gospel who visited her as a friend; though afterwards, when persons came about her who doubted her guilt, and gave her to understand that a reprieve might be hoped for, she changed her tone, and like Palmer and Patch, and many others whose guilt no one doubts, went out of the world unconfessed.

The extract which follows is copied verbatim from my uncle's note-book, and has been supplied to me by his son, Mr. Joseph Gurney, the present short-hand writer to the Houses of Parliament:—

"Doubts having been on several occasions expressed of the guilt of Eliza Fenning, I feel it my duty to record the facts with reference to her case which came within my knowledge.

"Feeling as strongly as any one can do the objection to the infliction of death by a human tribunal, I still feel that there is a justice due to prosecutors, who are bound conscientiously to speak the truth, and to jurymen, who are sworn to find a verdict according to the evidence, which in many instances has been disregarded.

"Having heard from a friend that the master and mistress of Eliza Fenning were esteemed highly respectable and conscientious, I was glad to find that the doubts entertained referred rather to the question whether the evidence, which was circumstantial, established her guilt. The jury and the judges thought it did, and I believe those who were present at the trial pretty generally concurred. In a few days, however, I heard that her strong asseverations of innocence had created a doubt, and that many who visited her felt a strong interest in her case, believing her to be innocent, and a petition to the King was sent in. The grounds of it were examined by the Secretary of State, the attention of the learned judge was called to the case, and on his report, that he felt no hesitation as to the propriety of the verdict, the law was directed to take its course, which it did. Still some persons retained their doubts.

"Shortly after her execution I heard that the Rev. James Upton, a Baptist minister, preaching in Church-street, Blackfriars-road, had visited her while under sentence of death, having been requested to do so in consequence of her having, when young, attended at his chapel, whether with her family or in the Sunday school I am not aware. I knew him to be a very excellent man—a man of great kindness of heart; I felt satisfied that he would not form a more unfavourable opinion than circumstances called for, and I took an opportunity of seeing him. He informed me that on his entering the cell, Eliza Fenning, with great earnestness and tears, exclaimed that she was innocent of the crime imputed to her—that it was a cruel charge, and so on. That he replied, 'Eliza, I have not come here to talk to you about that. I do not mean to ask you whether you were guilty of that crime or not, but I come to you as a minister of Jesus Christ, hearing that you are probably very shortly about to appear before your Judge, to remind you that you are a sinner, and that unless those sins which you are conscious you have committed are repented of and pardoned, you can have no good hope for eternity. I come to set before you Jesus as a Saviour able and willing to save.' He said, 'I was somewhat affected, considering the situation of this poor girl about to suffer, and I talked to her earnestly, entreating her to seek mercy, and avoiding altogether the subject of her conviction. Before I had done she was quite melted down, and then it all came out.' I said, 'Do you mean that she confessed that crime?' 'Oh yes,' said he, 'there was no reserve then. She confessed that it was all true, and I besought on her behalf the forgiveness of all her sins, and of that among the rest; and I hoped at the time that she had joined in that prayer, but I understand that after this she still persisted in assuring those who visited her of her innocence.'"

I have felt it important to secure a wide circulation for this decisive refutation of a very current story, while the recent trial is fresh in men's minds. Circumstances, to which I need not refer, have prevented an earlier communication, but I hope you will still think it deserving of the publicity which your columns alone can give it. The facts are important with reference to the criminal jurisprudence of the country. But having got upon the subject of reprieves and confessions, I should like, if you will allow me, to go on, and speak of the fearful mischief often done within the walls of prisons by those who profess themselves the friends of doomed criminals. The questionings which go on there, the repeated solicitations to confess, the importance attached to persevering denials of guilt, must necessarily have a blinding effect on those who are thus beset.

Numbers, I believe, will not confess, just because so much is made of confession. "They want me to confess that they may feel secure in hanging me" is the natural feeling at such times. "The verdict does not satisfy them unless I admit its justice. I won't do that. If I deny my guilt stoutly, I shall, perhaps, be believed at last, and escape." Thus, during the awful interval which is the murderer's brief preparation time for eternity, he is balancing probabilities of escape, demeaning himself so as to make a favourable impression on bystanders, heaping up lies which, by possibility, he thinks may gain him long time for repentance hereafter—doing anything, in fact, but realising his position, and opening his ears to the godly counsel of those who desire to save his soul alive. If a criminal wishes to confess, there is no hindrance in his way. The penitent, without compulsion, will unlock the secrets of his heart to his spiritual adviser at any rate, and to the world at large I do not know that he is bound to proclaim his guilt. Importunity, on the other hand, will not wring out of the dogged malefactor what he is determined to conceal; and if he is to be softened at all, and brought to a better mind, it must be, not by repeating questions to which he has given one answer already—not by turning his thoughts back again to life, and suggesting the hope that oft-repeated asseverations will stay the uplifted hand of justice, but by going to work as good Mr. Upton did, speaking compassionately, as a sinner to a fellow-sinner, of our common guilt and the common redemption, appealing to the conscience, stating plainly that all transgressions, secret and open, must be repented of, and pointing to the Lamb of God, whose blood cleanseth from all sin, while to the impenitent and unbelieving, the hardened and self-justifying, it is declared plainly that there remaineth only judgment without mercy. "It all came out," says the narrator, when he thus addressed the poor girl, whom he had known in happier days. Alas! she had other advisers afterwards—persons who meant kindly, but who did her fearful wrong. The confession was retracted. Hope was strong, doubtless, in that young bosom, and the efforts making on her behalf were sure to be reported to her. Between her cell and the scaffold the ordinary "stopped her for a moment," says the *Annual Register*, "to ask her if in her last moments she had anything to communicate." (She had better, surely, have been let alone; her tongue was not tied; she could speak then, as before, all she wished to speak. Who shall say that she might not hope, even then, that another lie might save her? It did make her a heroine and a supposed martyr with the populace). "She paused a moment, and said, 'Before the just and Almighty God, and by the faith of the holy sacrament I have taken, I am innocent of the offence with which I am charged.'" By her own confession, at another time, she was a murderess; dying thus, with a lie upon her lips, she was no penitent. My fear is, that the time of probation was lost, the faithful admonition forgotten, the course of repentance arrested, and the soul retained in the bondage of sin, because she was buoyed up with false hopes; and her fatal gifts of youth and beauty, coupled with protestations of innocence, made a party in her favour, who hoped, up to the last hour, to extort a reprieve from Government.

I am, Sir, your obedient servant,
J. H. Gurney,
Rector of St. Mary's, Marylebone.

GEORGE SHEARCROFT, Long Sutton, Lincolnshire, grocer, Aug. 25 at Sept. 15 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Hodgson & Allen, Birmingham; Sole & Co., Aldermanbury.—Pet. d. July 27.

HENRY HEATHCOTE STATHAM, Liverpool, attorney-at-law, Aug. 21 and Sept. 17 at 11, Liverpool: Off. Ass. Bird; Sols. Norris & Son, Liverpool.—Pet. f. Aug. 7.

JOHN HUTHERSAL, Altrincham, Cheshire, chemical manure manufacturer, Aug. 21 and Sept. 11 at 12, Manchester: Off. Ass. Hernaman; Sol. Bennett, Manchester.—Pet. f. Aug. 6.

WILLIAM MIDDLEWOOD and WILLIAM ANDERSON, Greenheys, Manchester, joiners, (trading under the style or firm of Middlewood & Anderson), Aug. 26 and Sept. 16 at 12, Manchester: Off. Ass. Fraser; Sol. Southam, Manchester.—Pet. f. July 30.

ISAAC KIRKBRIDE and JOHN KIRKBRIDE, Carlisle, stonemasons, Aug. 21 at 11, and Oct. 2 at half-past 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Wright, Carlisle; Hoyle, Newcastle-upon-Tyne.—Pet. f. July 29.

MEETINGS.

Thomas Stutely, Sheerness, Kent, stonemason, Aug. 24 at 2, London, last ex.—*Augustus Salter*, Swansea, Glamorganshire, grocer, Aug. 27 at 11, Bristol, aud. ac.—*Thos. Jones*, Merthyr Tydfil, Glamorganshire, grocer, Sept. 10 at 11, Bristol, aud. ac.—*John B. Reed*, Cardiff, Glamorganshire, shipbroker, Sept. 10 at 11, Bristol, aud. ac.—*S. Stonard* and *L. J. Stonard*, Shoreditch, and High-street, Hoxton, Middlesex, oilmen, Sept. 1 at 11, London, div.—*James Summers*, Hatton-garden, wholesale jeweller, Sept. 1 at 11, London, div.—*W. Wayre*, Oxford-street, mantle warehouseman, Sept. 1 at 11, London, div.—*Samuel Richards*, Bedford-square, apothecary, Sept. 1 at 1, London, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Lewis H. Myers, Wellesley-street, Stepney, dealer in Manchester goods, Sept. 4 at half-past 11, London.—*S. Richards*, Bedford-square, apothecary, Sept. 2 at 12, London.—*James Savage* the elder, *Charles J. Savage*, and *James Savage* the younger, Noble-street, City, shirt manufacturers, Sept. 2 at 2, London.—*S. Stonard* and *L. J. Stonard*, Shoreditch, and High-st., Hoxton, oilmen, Sept. 2 at half-past 2, London.—*Robert James Norton*, Fleet-street, baby linen warehouseman, Sept. 2 at 12, London.—*S. Moriee*, Coleman-street, City, importer of foreign and fancy goods, Sept. 1 at 1, London.—*James Bramwell*, Glossop, Derbyshire, grocer, Sept. 1 at 12, Manchester.

To be granted, unless an Appeal be duly entered.

Alfred Ellis, Wimborne, Dorsetshire, wine merchant.—*J. Evans*, Whitefield, Lancashire, bleacher.—*M. Chaplin*, Kingston-upon-Hull, auctioneer.—*H. Harrison*, Sheffield, tailor.—*Ebenezer Brookes*, Sheffield, spring knife manufacturer.—*James Peart*, Birmingham, bookseller.—*Charles Wm. Hill*, Birmingham, anvil maker.—*Joseph Hardy*, Nottingham, miller.—*G. A. Hewitt*, Derby, chemist.

PETITIONS ANNULLED.

Rowland Parry, Bangor, Carnarvonshire, flour dealer.—*Joseph Dodson* the younger, Wormley, Hertfordshire, Russia merchant.

SCOTCH SEQUESTRATIONS.

Matthew Dick, Kirkintilloch, yarn merchant.—*J. M'Caull*, Stranraer, boot maker.—*Lockhead & M'Laren*, Stirling, plumbers.—*Andrew L. M'Murtrie*, Milngavie, innkeeper.—*Charles John Allen*, Edinburgh, bill broker.

MEMBERS RETURNED TO SERVE IN PARLIAMENT.—John Glencairn Carter Hamilton, Esq., for the Falkirk District of Burghs, in the room of James Merry, Esq., whose election has been adjudged void; John Bright, Esq., for the borough of Birmingham, in the room of George Frederick Muntz, Esq., deceased; Adolphus William Young, Esq., and John Mellor, Esq., barrister-at-law, for the borough of Great Yarmouth, in the room of William Torrens M'Cullagh and Edward William Watkin, Esqrs., whose election has been adjudged void.

COMMISSIONERS TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed John Leonard Bell, Gent., of Bourne, Lincolnshire, to be a commissioner to administer oaths in the High Court of Chancery in England; also John Layton, Gent., of 21, Milner-square, Islington, to be a London commissioner to administer oaths in the High Court of Chancery.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—Nathaniel Hollingsworth, of Gresham-street, in and for the city of London; Nicholas Gedye, of Twickenham, Middlesex, in and for the county of Middlesex, and city and liberties of Westminster; John Kirby Hedges, of Wallingford, Berkshire, in and for the county of Berks, also in and for the county of Oxford; George William Prescott, of Stourbridge, Worcestershire, in and for the county of Worcester, also in and for the counties of Stafford and Warwick; John Riley, of Wolverhampton, Staffordshire, in and for the county of Stafford; and William Parkes, of Willenhall, Staffordshire, in and for the county of Stafford.

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GAZETTES.—Friday, *Aug.* 14.

Bankrupts.

WILLIAM ROBINSON and WILLIAM HIDE, North-wharf-road, Paddington, timber merchants, Aug. 26 at 2, and Sept. 28 at 1, London: Off. Ass. Lee; Sol. Gilham, 24, Bartlett's-buildings.—Pet. f. Aug. 11.

LOUIS STERN and MEYER LOEWINSOHN, Savage-gardens, Crutched-friars, City, ship chandlers, Aug. 27 at 2, and Sept. 19 at 11, London: Off. Ass. Whitmore; Sols. J. & S. Solomon, 22, Finsbury-place.—Pet. f. Aug. 6.

DANIEL MELHADO, Dover, Kent, ship agent, (trading under the style or firm of Edward Hodges & Co.), Aug. 27 at 12, and Sept. 19 at half-past 12, London: Off. Ass. Whitmore; Sol. Bousfield, 14A, Philpot-lane.—Pet. f. Aug. 3.

SAMUEL WEST, Nottingham, lace maker, (carrying on business with Frederick Baxter, under the style or firm of Tillson & Co.), Aug. 25 and Sept. 29 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. Aug. 11.

WILLIAM HIRST, Derby, silk manufacturer, (trading under the style or firm of Hirst & Smith), Aug. 25 and Sept. 22 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Pickering, Derby.—Pet. d. Aug. 10.

RICHARD WILLEY, Leicester, linendraper, Aug. 25 and Sept. 29 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Stone & Co., Leicester; James, Birmingham.—Pet. d. Aug. 6.

CHARLES ALEXANDER HILL, Bristol, cabinet maker, Aug. 25 and Sept. 29 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan & Girling, Bristol.—Pet. f. Aug. 12.

WILLIAM HELLIWELL, Kitson-wood Mill, near Todmorden, Stansfield, Halifax, Yorkshire, cotton spinner, (surviving partner of Matthias Pilling, trading under the firm of Helliwell & Pilling), Aug. 25 at half-past 11, and Sept. 25 at 11, Leeds: Off. Ass. Hope; Sols. Holgate & Roberts, Rochdale.—Pet. d. Aug. 5.

JOHN WALKER, Liverpool and Rochdale, tobacconist, (carrying on business without a partner, under the firm of John Walker & Co.), Aug. 27 and Sept. 17 at 11, Liverpool: Off. Ass. Turner; Sols. Lowndes & Co., Liverpool.—Pet. f. Aug. 11.

ROBERT SIMPSON, Sedgefield, Durham, draper, Aug. 26 at 11, and Oct. 6 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Marshall, Durham; Hodge & Harle, Newcastle-upon-Tyne.—Pet. f. Aug. 11.

Meetings.

John Julian Jackson, Brighton, dyer, Aug. 25 at 2, London, last ex.—*William Henry Richards* and *Sigismund Louis Borhheim*, Gracechurch-street, City, and Balaklava, Crimea, merchants, Aug. 25 at 12, London, last ex.—*Henry Osborn*, Water-lane, City, and Great Windmill-street, Haymarket, wine merchant, Aug. 28 at 11, Londen, last ex.—*John Hair*, Newcastle-upon-Tyne, ship broker, Aug. 26 at half-past 11, Newcastle-upon-Tyne, last ex.; at 12, aud. ac.—*Samuel Stonard* and *Louis Joseph Stonard*, Shoreditch, and High-street, Hoxton, oilmen, Aug. 26 at 12, London, aud. ac.—*James Summers*, Hatton-garden, wholesale jeweller, Aug. 26 at 12, London, aud. ac.—*William Wayre*, Oxford-street, mantle warehouseman, Aug. 26 at 12, London, aud. ac.—*Anthony Halliley* and *Richard Halliley*, Wigton, Cumberland, calico printers, Aug. 27 at 11, Newcastle-upon-Tyne, aud. ac.—*Philip Jones*, Llangattock, Monmouthshire, banker, Sept. 24 at 11, Bristol, fin. div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

William Spencer, Holywell, Flintshire, grocer, Sept. 4 at 11, Liverpool.—*Michael Neville*, Liverpool, brassfounder, Sept. 4 at 11, Liverpool.—*John Barber*, Derby and Stanley, Derbyshire, miller, Sept. 15 at half-past 10, Nottingham.

To be granted, unless an appeal be duly entered.

Edward Jackson Davies, High-street, Poplar, draper.—*Edgar Adams*, Brighton, laceman.—*George Wm. Glinister*, Spring-garden-place, Stepney, and *Wm. Joseph Glinister*, Green-street, Stepney, grocers.—*Samuel Munday*, Gosport, Hampshire, baker.—*Wm. Doeg*, Newcastle-upon-Tyne, timber merchant.—*Wm. Burt*, St. Stephen's by Launceston, Cornwall, builder.—*Henry Noell*, Hayle, Phillack, Cornwall, accountant.—*Benjamin Chandler*, Sherborne, Dorsetshire, attorney.—*Robert Atkinson*, York, hairdresser.—*John Best*, Halifax, linendraper.—*Samuel Armson*, Wallbrook Coseley, Sedgley, Staffordshire, builder.

Scotch Sequestration.

Robert Falconer, Keith, Banffshire, solicitor.

Tuesday, *Aug.* 18.

Bankrupts.

EDWARD SIMMONS COOPER, Commercial-place, City-road, leather seller, Sept. 2 at 1, and Sept. 30 at 11, London: Off. Ass. Graham; Sol. Strong, 44, Jewin-street, Cripplegate.—Pet. f. Aug. 17.

WILLIAM CHAPPIN, Tring, Hertfordshire, straw-hat manufacturer, Aug. 28 at 2, and Sept. 24 at 11, London: Off. Ass. Whitmore; Sol. Pearce, 8, Giltspur-street, London.—Pet. f. Aug. 14.

CHARLES DORRETT, late of Serle-street, Lincoln's-inn, Middlesex, dealer in wines, and now of Rochester, Kent, out of business, Aug. 27 at half-past 12, and Oct. 2 at 11, London: Off. Ass. Cannan; Sol. Rees, 8, Copthall-court, City.—Pet. f. Aug. 13.

GEORGE YOUNG, Old-street-road, victualler, Aug. 28 at 1, and Oct. 2 at 12, London: Off. Ass. Cannan; Sols. Wright & Bonner, 15, London-street, Fenchurch-street.—Pet. f. Aug. 10.

JOHN WITHERDEN, Dunstable, Bedfordshire, coal merchant, Aug. 27 at 11, and Oct. 2 at 1, London: Off. Ass. Cannan; Sol. Armstrong, 33, Old Jewry.—Pet. f. July 31.

JOHN HINKLEY the younger, Brentwood, Essex, corn dealer, Aug. 28 at half-past 1, and Oct. 2 at half-past 11, London: Off. Ass. Cannan; Sols. Marten & Co., Mincing-lane.—Pet. f. Aug. 6.

JOSEPH WILLMOTT and JOHN HARTLEY, Essex-street, Kingsland-road, Middlesex, and Battersea, Surrey, sawyers, (carrying on business under the style or firm of Willmott & Co.), Aug. 29 at 12, and Sept. 2 at half-past 1, London: Off. Ass. Cannan; Sol. Roscoe, 14, King-street, Finsbury-square.—Pet. f. Aug. 17.

JOHN FREDERICK AUGUSTUS MINCH, Mincing-lane, commission merchant, Aug. 31 at 1, and Sept. 28 at 12, London: Off. Ass. Pennell; Sols. Dawson & Bryan, 33, Bedford-square.—Pet. f. Aug. 12.

THOMAS WILSON, West Bromwich, Staffordshire, railway-carriage maker, Aug. 28 and Oct. 9 at 10, Birmingham: Off. Ass. Whitmore; Sols. Smith & Burdkin, Sheffield; Smith, Birmingham.—Pet. d. Aug. 4.

THOMAS BURBIDGE MARSTON, Leicester, dyer, Sept. 8 and 22 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Davis, Leicester; Knight, Birmingham.—Pet. d. Aug. 15.

BENJAMIN MOSELEY, Bradway, Norton, Derbyshire, scythe manufacturer, Sept. 5 and 26 at 10, Sheffield: Off. Ass. Brewin; Sol. Ryalls, Sheffield.—Pet. d. Aug. 10; f. Aug. 12.

HECTOR MELVILLE, Liverpool, cooper, Sept. 8 and 30 at 11, Liverpool: Off. Ass. Cazenove; Sol. Blackhurst, Liverpool.—Pet. f. Aug. 17.

ROBERT SUTTON and WILLIAM HAYWOOD, Liverpool, booksellers, Sept. 8 and 30 at 11, Liverpool: Off. Ass. Morgan; Sol. Pemberton, Liverpool.—Pet. f. Aug. 17.

HUGH MACKAY and WILLIAM BISHTON DAVIES, Liverpool, shipwrights, Sept. 1 and 21 at 11, Liverpool: Off. Ass. Cazenove; Sols. Dodge, Liverpool; Ewer, Liverpool.—Pet. f. Aug. 7.

JOSEPH BRADBURY ROBINSON, Macclesfield, Cheshire, hosier, Aug. 31 and Sept. 28 at 12, Manchester: Off. Ass. Fraser; Sols. Parrott & Co., Macclesfield.—Pet. f. Aug. 13.

JOHN MATTHEWS the younger, Plymouth, and Stonehouse, Devonshire, statuary, Aug. 31 at 10, and Oct. 5 at 1, Plymouth: Off. Ass. Hirtzel; Sol. Elworthy, Plymouth.—Pet. f. Aug. 13.

Meetings.

Frederick Hofman, Herbert-street, New North-road, merchant, Sept. 17 at 1, London, last ex.—*Henry Ivimey Cox*,

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THE JURIST.

LONDON, AUGUST 22, 1857.

Within the last thirty years the law of bankruptcy, especially the administrative part of it, has been several times remodelled, and apparently has yet to undergo much further modification. The Lord Chancellor has promised to devote his best energies to the subject during the recess, and we may reasonably hope that in the course of the next session he will justify the expectation which his promise has occasioned, by presenting us with a bold and comprehensive measure of bankruptcy reform. But the initiative upon this question has now, as heretofore, been taken by Lord Brougham, who has introduced into the House of Lords a bill which embodies the improvements suggested by the Mercantile Conference, so far as these coincide with the conclusions of his own experience. By this step his Lordship has brought prominently before the notice of the Legislature and the public the principal wants and wishes of those whom the bankrupt law most intimately concerns—the inhabitants of the great manufacturing and commercial towns—and has furnished to the Lord Chancellor abundant materials wherewith to occupy the leisure time of his vacation.

We propose to comment shortly upon the alterations which Lord Brougham recommends, but according to our own arrangement; and first with respect to the officers and judges of the court. The most important of these officers, the official assignee, is now paid by a per-centage upon the amount of the assets which he collects. The consequence has been that the emoluments of the office have fluctuated considerably at various times and in different places. In some districts the realisation of bankrupts' estates has been attended with exorbitant profits; while in others the official assignee has received a sum barely sufficient to reimburse his expenses. Lord Brougham advises—and in this he follows the unanimous opinion of the delegates to the Conference—that for the future the remuneration should consist partly of a salary and partly of fees, by which latter we understand him to mean a per-centage on a diminished scale. In this amendment we are very much inclined to concur. It may happen that an official assignee will be employed throughout the year in scraping together a variety of properties, the value of which is very insignificant, but the difficulties to be encountered and the trouble involved in the collection quite as great as in the case of large estates. Surely, therefore, he is entitled to expect in every instance something like a competent reward for his valuable services; and we do not see how this can possibly be secured except by a fixed stipend. At the same time it is very desirable to preserve that incentive to zeal and punctuality in the discharge of his duties which is afforded by making it his interest to exert those qualities to the utmost stretch. If necessary, we might always preclude the possibility of unreasonable gains by putting a maximum upon the income which the assignee may obtain from the per centage. The office of accountant in bankruptcy his Lordship proposes altogether to abolish, as well as to dispense with the services of the broker. Although it would perhaps be difficult to contend that the benefit of retaining these two functionaries is commensurate with the expense incurred, still we have some doubt about the expediency of transferring the work of the accountant to other hands. There is a pretty general wish that the sphere of the Court of Bankruptcy should be enlarged rather than contracted, and we can detect a disposition among many eminent personages to pour into it a flood of business which is now, perhaps, less conveniently transacted in other courts. For instance, it does not require the gift of divination to foresee that the commissioners, who have already been intrusted under the new act with the winding up of limited joint-stock companies, may one day absorb within their jurisdiction all companies, without regard to the extent of liability. The present compromise with the Court of Chancery has admitted the fact that the bankruptcy judges are competent to deal with such cases, and in the course of time the duty of collecting and distributing the assets of defunct joint-stock companies must be assigned to that court, the proceedings of which are least dilatory and expensive, and the machinery the best adapted to the purpose. Moreover, as his Lordship pointed out, it may hereafter be thought expedient to annihilate the distinction between trader and non-trader with reference to insolvency, and thus to invest the commissioners with all the additional jurisdiction of the Insolvent Court; and by these means the functions of the accountant would become so augmented that it might be dangerous to amalgamate them with those of any other officer.

One of the greatest evils of which the Conference complained was the cost attending upon the administration of the bankruptcy law; and upon this point we cannot do better than quote his Lordship's own words. "Taking one district," his Lordship said, "he would not mention the name, where there were 121 bankruptcies in the year 1854–55, it was found that the sum collected under these bankruptcies was 90,000*l.*, of which only 44,000*l.* was distributed among the creditors, leaving between 45*l.* and 50*l.* per cent. of the whole sum for the expenses of administering the bankruptcies. This arose mainly from the fact that the salaries and expenses of the administration were paid by fees. But though no one was more desirous than he that the system of payment by fees should be abolished, he made a great distinction as between litigation and administration. He was of opinion, however, that the higher officers of the Court of Bankruptcy should be paid by salaries, as in the (*other?*) courts of justice, and not thrown for remuneration upon the creditors. There was at this moment 25,000*l.* a year paid as compensation to those commissioners of bankruptcy who had been displaced in 1831, all of which came out of the suitors' fund in that court. This he held to be unendurable, and he was clearly of opinion that it ought to be placed upon the Consolidated Fund." To this statement of Lord Brougham we have only to add, that the claims for compensation mentioned by him are not the only ones which have been discharged out of the pockets of the suitors; and if we are not much mistaken, their fund, as it is sarcastically called, has from that time down to a very recent period indeed, been continually overladen with fresh and unfair impositions.

It was further suggested by members of the Conference, that the estates of deceased persons, who if they had lived would have been made bankrupt, should be administered under the control of the Bankruptcy Court. The object of this proposal appears to be to avoid the cost of needless litigation in Chancery, and at the same time to effect a more expeditious and impartial distribution of the effects of a trader who has died insolvent than can now in general be obtained. In bankruptcy the different classes of creditors stand upon a more equal footing than elsewhere; and we do not fancy that business is dispatched by executors or administrators, or even in a judge's chambers, with greater celerity, and more economically, than it is, or at any rate might be, in a commercial court. What degree of favour the Lord Chancellor may accord to the proposal we cannot tell; but it is at least worthy of consideration whether the death of a trader after having committed an act of bankruptcy, but *before adjudication*, should be suffered to prejudice the interests of his creditors. The objection that a bankrupt is entitled to be heard in person against the adjudication can hardly now be entertained; for by the 6 Geo. 4, c. 16, s. 26, and again by the 12 & 13 Vict. c. 106, s. 116, it was provided, that if any bankrupt should die *after adjudication*, the Court might proceed in the bankruptcy as if such bankrupt were still living.

That feature, however, of the law of bankruptcy to which Lord Brougham invited the most particular attention we have reserved for the last. That was the system of appeals, as to which the Conference recommended that the duty of reviewing an original decision of the Court should be committed to three commissioners, including the one before whom the matter was heard, instead of to the Lords Justices. Whatever may be thought of the merits of this plan, there can be no doubt that the method which now prevails has awakened great dissatisfaction. It is a very common practice for an appellant, especially on questions appertaining to the certificate, to submit to the Lords Justices a totally different case from that on which he relied before the inferior judge. This case he supports by affidavits, often so artfully concocted, by suppressing what has appeared to the Court below to be unfavourable or suspicious, and insisting strenuously on what he conceives likely to conciliate the judicial sympathies, as, without any positive misstatement, to convey an entirely erroneous impression of the facts. Upon these affidavits the order against which the appeal has been made is not unfrequently reversed or varied, without any personal examination of the witnesses, with whose bearing and demeanour the commissioner was thoroughly acquainted, and from whom he has probably elicited the truth—not to mention that during the progress of the inquiry before him he has been enabled to acquire from other sources a much more accurate knowledge of the real state of the bankrupt's affairs than their Lordships can ever attain. Even if the witnesses were always compelled to attend before the Lords Justices, and to give their testimony by word of mouth, it does not by any means follow that that perfect justice would be done which the Lord Chancellor seemed to imagine. A second scrutiny into matters of fact, especially after a long interval, is almost always a most stale and unsavoury affair. The witnesses may be dishonest, and anxious to conceal or distort the truth. Upon their first interrogation they have most likely been caught unprepared, and perhaps kept apart from each other during the investigation. But when they are brought again before the Court, they come well primed with a story which their previous ordeal has taught them to concert and adjust beforehand; and the lapse of time furnishes them with an excellent excuse for any discrepancies that may be detected in their evidence. Even a new trial at law, on the ground that the jury have found a verdict against the weight of evidence, is never directed until sufficient cause has first been clearly shewn; and when it is ordered, it is not the Court of error which presides over the inquiry. If a commissioner is competent to ascertain the facts at all, his verdict ought to be final. If not, the inference is, that he is unfit for his post, and ought to be removed. It is not so much our province as that of the Legislature to invent a remedy for these defects; but there is one so obvious that we are constrained to notice it. A summary of the evidence might be drawn up in the form of a special case, and this statement, when approved by the commissioner, the Court of Appeal might be bound to treat as complete and accurate. We should thus at least avoid the inconvenience of a second controversy about the facts, and the scandal of allowing the capacity of a judge to preside over the examination of witnesses to be tested by two other judges, who may be far less familiar with oral examinations, and at the same time not so conversant with the customs of traders, which often form the subject of the interrogatories. Perhaps, however, the aim of the Conference goes further than this: they may, as we have done, find it difficult to discover upon what principles the Lords Justices have exercised the discretionary powers with which the Court of Bankruptcy is invested; and may think that the sentences of the commissioners in such cases are more in accordance with the opinions of the mercantile classes, and much better calculated to promote good faith and integrity among those engaged in trade.

THE STATUTE-LAW COMMISSION.

TO THE EDITOR OF "THE JURIST."

SIR,—Ample confirmation and illustration of your remarks on the Statute-law Commission are to be found in the Third Report of the commissioners, presented about a month ago.

"One reason," you observe, "why so little progress has been made in so considerable a time appears to be this—that really no definite or fixed plan of consolidation has been adopted." You might have added, "or is likely to be adopted by this commission." The commission—I prefer to treat it as an impersonality, and to say nothing of the able and eminent men whose misfortune it is to have been appointed to a task which they cannot ever seriously enter upon—the commission is not even in search of a plan of procedure; it is unconscious that it wants a plan. The Third Report contains this passage:—

"In laying down rules for the consolidation of the statute law, we have felt it impossible to adopt one universal principle. It will be observed that our task is to consolidate the existing law, not to frame a code of general law founded on that which now exists, nor, in fact, to make a digest of the statute law with additions or alterations; we therefore find it necessary to treat the different classes of statutes according to particular circumstances. Thus many statutes of ancient date, which have been through a course of ages expounded by the Courts, must now be regarded rather as the basis than as the whole structure of the existing law, and can hardly be made the subject of simple consolidation." Magna Charta, the Statute Quia Emptores, and the Statute of Uses are instanced, and it is proposed that such statutes should, without enactment, be merely classified and reprinted. "There is another class of statutes which it would not be possible to consolidate in the mere terms of the existing enactments. We allude to those which consist of a series of fragmentary alterations of or additions to the common law—such, for instance, as those which have been passed to regulate the relation of landlord and tenant. We have caused a bill on that subject to be prepared, but the effect of so incoherent a collection of exceptions without the rules, and explanations or additions without the thing explained or added to, part in antiquated and part in modern language, is certainly not satisfactory; and it appears to us at least doubtful whether, in cases of this kind, anything like a complete and intelligible enactment can be produced," [Does the commission mean to say that the existing enactments are unintelligible?], "unless we rewrite the law, availing ourselves occasionally of our power to embody the common law."

Evidently it is impossible for this commission "to adopt one universal principle." In two consecutive paragraphs it propounds two contradictory principles of procedure. It proposes to leave outstanding and unconsolidated those ancient statutes which have become embedded in, and inseparable from, the common law: it also proposes to cement together the fragmentary enactments of modern legislation, by "embodying" the common law. If either of these proposals is right, the other must be wrong. If a statute is not fit for consolidation because it has acquired the nature of common law—that is to say, because its meaning and effect are to be read, not in its own words, but in decisions—still less can the common law, which exists in decisions only, be fit for consolidation. If, on the other hand, any part of the common law may properly be made into a statute, no part of the statute law can, merely because it has been developed into common law, be unfit for that process. It would be incredible, if it were not true, that though this commission has been at work upon the statute law since December, 1854, and has prepared, as we are told, forty-eight consolidation bills, it has not yet learned that—not merely this or that class of statutes, but—the entire statute law is essentially, and must for ever be, "a series of fragmentary alterations of, or additions to, the common law"—a necessary evil—law in its worst form—a collection of rules, each stretched or mutilated on the Procrustean bed of a verbal formula. The first enactment that is printed in the Statutes at Large (passing over the vague assurance that the church shall be free) is, that the relief of the heir of an earl shall be 100*l.*; the last, of the present session, will probably consist of certain exceptions to the rule that marriage is indissoluble; and yet we are told that certain statutes ought not to be consolidated because they are fragmentary! Can the commission tell for what purpose the consolidation of the statutes is required? It would be too much to expect of it. Indeed, I am inclined to infer from the tenor of its reports, and particularly from a remark at the end of the last report, (that "it would be necessary under any circumstances, if an edition of the statutes adapted to the wants of the public is to be produced, to add, in a supplement or otherwise, the laws" repealed but still regulating decisions on past transactions), that the commission agrees with the credulous public in supposing that its mission is to produce a readable edition of the existing statute law—an improved "Chitty's Statutes of general utility." It can only have been in preparation for this result, if not to amuse the vulgar, that the "Act to repeal certain statutes which are not in use" (19 & 20 Vict. c. 64, the solitary achievement of the commission) was prepared.

The commission has yet to learn that the sole end of consolidation is the improvement of the statute law *for the future* in substance and in expression—the laying of a foundation for methodical legislation, by so expressing and arranging the written law for the time being in force *as written law*, (the old statutes referred to in the above extract from the Third Report are not now in force *as statutes*), that whenever an alteration is necessary, it may be made upon consideration of every part of the written law which it is to affect, and be expressed according to the most approved rules of legislative expression, and, when settled, be put *in the place* of that which it is to supersede, instead of being laid upon it like a patch. So far is the commission from understanding this, that it actually proposes to take no notice of recent statutes which have been only slightly modified by subsequent amending acts.

How does the commission propose to set about the consolidation of those statutes which it thinks fit for the process? In the Third Report is this passage—"In order to assist us in arranging those parts of the contents of the statute-book which it may be deemed expedient to consolidate, ... we some time since gave instructions for an examination of the statute-book, and for a classification, in the manner explained in the last-mentioned Report, of such acts as are not repealed or expired, or have not otherwise ceased to be operative. As this work is proceeded with, a 'register' is made of the acts of each session as they are examined, shewing the acts wholly or partially repealed or otherwise affected by the acts registered, the subsequent acts by which the acts registered are themselves repealed or otherwise affected, and which of the acts registered are expired or are otherwise no longer in operation, and classifying all the acts still in force." This is preliminary to consolidation. In the meantime forty-eight consolidation bills are ready! A specimen of the register is given in an appendix to the Third Report. It includes the acts of the 7 Will. 4 & 1 Vict., and contains entries in columns under the following heads:—1. Chapter. 2. Subject-matter. 3. Class, (the classes being—Armed Force, Revenue, Financial, United Kingdom, Great Britain, England and Ireland, England, Scotland, Ireland, Local and Special, (subdivided), Colonies, East Indies, Slave Trade). 4. Sections affecting or referring to acts in the next column. 5. Acts affected or referred to by acts here registered. 6. Subsequent acts, by which acts here registered are affected or referred to. 7. When acts here registered are expired or spent. 8. Duration of acts here registered, when temporary and unexpired. 9. Remarks. It is evident that the only columns of any importance are the 5th and 6th. There is no other information in the table but what is patent on each act, and cannot be missed by any one who has to deal with it, and is useless in a tabular form. Now, the columns 5 and 6 are delusive, and do not contain what they profess to contain, nor any useful information. They do not shew all the acts affected by the acts registered, nor all the acts by which those acts are affected. They shew only (as is candidly stated by the learned and able gentlemen who have prepared the register, and for whom I wish more worthy occupation) those acts which are *expressly* referred to in, or *expressly* refer to, the registered act. For example, the stat. 7 Will. 4 & 1 Vict. c. 80, (exemption from usury laws of certain bills and notes), is registered as extending the 3 & 4 Will. 4, c. 98, and not as affecting any other statute. No reference to the 12 Ann, st. 2, c. 16, which it repealed as to certain transactions, (and which is not cited in the 3 & 4 Will. 4, c. 98). Constructed on such a principle the register is worse than useless—it is a snare. We do not want to know what statutes are expressly mentioned in a given statute, nor by what statutes a given statute is expressly noticed. We want, and the draftsman wants, a guide to all the statutes in any way affecting a given subject. We want, among other things, a commentary on such a slovenly enactment as this—"All enactments inconsistent with this act are hereby repealed." How is this to be done? It is only to be done by hard and honest labour, directed by intelligence, and proceeding upon a well-considered plan. It can only be done by settling a scheme of classification, in which every possible enactment, however particular or minute, will find its certain and appropriate place, and by arranging the whole contents of the statute-book according to that scheme. When this is done, half the work is done. In the course of doing it, expressly repealed, expired, and obsolete matter will disappear, and inconsistent enactments will be brought face to face, and the draftsman will then know how to deal with them, or what treatment to recommend.

But what encouragement have the draftsmen under this commission? They have neither adequate pay nor honour. We never hear their names, unless, as in the case of Mr. Lonsdale, we are told of some work left incomplete. The Lord Chancellor the other day, in the House of Lords, referring to the above-mentioned bill for the consolidation of the law of landlord and tenant, (by Mr. Bisset, I find), praised it as a work of great labour and ability, by a gentleman "whose name he had forgotten." The commissioners say they have received forty-one bills from the draftsmen, but do not tell us who they are. Amateurs are better treated. Mr. Tapping and Mr. Edward Cooke, who have "obligingly presented" the commission with bills, have their names embalmed in the Report.

Let us not despair, however. The Report concludes with the confession that the commission finds it has got a tough job. In the (perhaps simple) hope that it will speedily give it up and pass on, I am, Sir,

Your obedient servant,

EXSPECTANS RUSTICUS.

GENERAL ORDER,

MADE IN PURSUANCE OF "THE JOINT-STOCK COMPANIES ACT, 1856," s. 100.

THE Right Hon. ROBERT MONSEY Lord CRANWORTH, Lord High Chancellor of Great Britain, doth hereby, in pursuance and execution of the powers to him given by the Joint-stock Companies Act, 1856, and of all other powers enabling him in that behalf, order and direct that the following fees shall be paid, in manner hereinafter mentioned, in respect of proceedings taken under the Third Part of the said act for winding up a company in the Court of Bankruptcy.

1. That the vellum, parchment, or paper upon which every document enumerated in the schedule to this rule is written or printed shall bear the stamp duty set opposite to such documents respectively in such schedule, and having the word "bankruptcy" impressed upon every such stamp; provided that where any such document shall consist of more than one sheet, only the first sheet thereof shall be impressed with such stamp.

SCHEDULE.

	£	s.	d.
Every petition to any Court of Bankruptcy in England by a creditor or contributory for the winding up a company	10	0	0
Every order of the Court of Chancery for winding up a company, which shall direct the subsequent proceedings for winding up the same to be had in any Court of Bankruptcy in England	10	0	0
Every application for search for petition, or other proceeding, (except search for the appointment of any sitting or meeting)	0	1	0
Every allocatur by any officer of the court for any costs, charges, or disbursements, where any such bill of costs shall not exceed 5*l*.	0	1	6
Exceeding 5*l*., and not exceeding 10*l*.	0	2	6
„ 10 „ 20	0	5	0
„ 20 „ 30	0	7	6
„ 30 „ 50	0	10	0
„ 50 „ 100	0	15	0
„ 100 „ 150	1	0	0
„ 150 „ 200	1	10	0
„ 200 „ 300	2	0	0
„ 300 „ 500	3	0	0
„ 500	5	0	0

2. That the official liquidator or official liquidators of each company shall, before the audit or passing of his or their account, pay into the Bank of England, to the credit of the Accountant in Bankruptcy, to the account intituled "The Chief Registrar's Account," the following per-centage on the gross produce from time to time received by him or them of the estate of such company, or the calls made on the contributories thereto, that is to say—

	£	s.	d.	
Upon the first monies of gross produce, not exceeding 500*l*.	5	0	0	per cent.
Upon all further monies of such gross produce above 500*l*., and not exceeding 5000*l*.	3	0	0	„
Upon all further monies of such gross produce above 5000*l*., and not exceeding 10,000*l*.	2	10	0	„
Upon all further monies of such gross produce above 10,000*l*., and not exceeding 20,000*l*.	1	0	0	„
Upon all further monies of such gross produce above 20,000*l*., and not exceeding 30,000*l*.	0	10	0	„
Upon all further monies of such gross produce above 30,000*l*.	0	5	0	„

3. That there shall be paid to the house registrar of the Court of Bankruptcy, London, the following fees, that is to say—

	£	s.	d.
For every sitting or meeting under each petition or order for winding up a company	0	10	0
For the registry of every such sitting or meeting ..	0	0	6
For every search out of office hours in the house registrar's office, except by order of a commissioner	0	1	0

4. That all such fees shall be payable by the same persons and at the same times, and shall be in all respects applied, and shall be subject to the same practice and orders, as fees of a similar character taken in ordinary proceedings in the Court of Bankruptcy.

August 1, 1857. Cranworth, C.

THE SELECT COMMITTEE ON OATHS TAKEN BY MEMBERS OF PARLIAMENT.

The following is the report from the Select Committee on Oaths taken by Members, together with the proceedings of the committee:—At the first sitting Lord John Russell, at the instance of Mr. Disraeli, was moved into the chair. The committee then deliberated and considered the provisions of the 5 & 6 Will. 4, c. 62. On the following day a motion was made and question proposed by the Attorney-General—"That in the opinion of this committee the House of Commons is included within the following words of the 8th section of the 5 & 6 Will. 4, c. 62—that is to say, 'all bodies now by law, or by statute, or by any valid usage, authorised to administer or receive any oath.'" Mr. Disraeli moved an amendment, to leave out from the word "that" to the end of the question, in order to add the words "it is expedient, before it comes to any decision on the matter referred to its investigation by the House, that this committee should obtain permission from the House to hear counsel on the application of the stat. 5 & 6 Will. 4, c. 62, to the Houses of Parliament;" but this amendment was, by leave, withdrawn. On the motion of the right hon. gentleman, it was agreed, by fourteen votes to nine, to postpone the consideration of the question. On the third day of meeting (Monday, Aug. 10) the committee took into consideration an amendment moved by Mr. Warren at the previous sitting, viz. to leave out from the word "committee" to the end of the question, in order to add the words "it would be expedient, regard being had to the late period of the session, and the public and private engagements of its members, that they should report to the House that the committee deem it advisable that it should be reappointed at the commencement of the ensuing session." It was agreed, however, "that the words 'that in the opinion of this committee the' stand part of the question." The main question was then put—"That in the opinion of this committee the House of Commons is included within the following words of the 8th section of the 5 & 6 Will. 4, c. 62—that is to say, "all bodies now by law or statute, or by any valid usage, authorised to administer or receive any oath." The committee divided: Ayes, 13—Mr. Dillwyn, Mr. Disraeli, Mr. Headlam, Mr. Horsman, Mr. Attorney-General, Mr. Roebuck, Lord Stanley, Sir J. Pakington, the Lord Advocate, Mr. Villiers, Mr. Ayrton, Mr. Greer, Mr. Bowyer. Noes, 16—Mr. Cobbett, Mr. Gladstone, Sir George Grey, Mr. Henley, Mr. Malins, Mr. Napier, Mr. Rolt, Mr. Walpole, Mr. Whiteside, Lord J. Manners, Mr. Macaulay, Mr. Wigram, Mr. Adams, Mr. Fitzgerald, Mr. Craufurd, Mr. Maguire. The committee agreed to report to the House as follows:—The following resolution was proposed by a member of the committee:—"That in the opinion of this committee the House of Commons is included within the following words of the 8th section of the 5 & 6 Will. 4, c. 62—that is to say, 'all bodies now by law or statute, or by any valid usage, authorised to administer or receive any oath.' Upon deliberation, the resolution passed in the negative."

Stratford, Essex, grocer, Sept. 18 at 12, London, aud. ac.—*James Woods*, Conduit-st., Hanover-square, tailor, Sept. 16 at 1, London, aud. ac.—*Wallace Alfred Jones*, Rose-terrace, West Brompton, tea dealer, Sept. 16 at 12, London, aud. ac. —*Joseph Slaughter*, High-street, Borough, Southwark, hop merchant, Sept. 1 at 12, London, aud. ac.—*Anderson Stoker*, Findon-hill, Durham, grocer, Aug. 28 at 12, Newcastle-upon-Tyne, aud. ac.—*Wm. Homer*, Birmingham, publican, Oct. 8 at half-past 11, Birmingham, aud. ac.—*Joseph Bradford*, Coventry, licensed victualler, Oct. 15 at half-past 11, Birmingham, aud. ac.—*Robert Hoff Bryan*, Lincoln, watchmaker, Sept. 9 at 12, Kingston-upon-Hull, aud. ac. and div. —*Joseph Key*, Crowle, Lincolnshire, ironmonger, Sept. 9 at 12, Kingston-upon-Hull, aud. ac. and div.—*James Stevens Tripp*, Lombard-street-chambers, Clement's-lane, City, dealer in mining shares, Sept. 8 at 11, London, div.—*Jas. Richardson*, *John Sanders Wicks*, and *Henry Smith*, Upper Queen's-buildings, Brompton, upholsterers, Sept. 9 at 2, London, fin. div. sep. est. of *John Sanders Wicks;* at half-past 2, div. joint est.—*Alfred Gibson*, Great St. Helens, City, ship-broker, Sept. 9 at 2, London, div.—*Robert James Norton*, Fleet-street, City, ladies' outfitter, Sept. 8 at 11, London, div.—*Wm. Augustin Reeves*, Wallingford, Berkshire, baker, Sept. 17 at 12, London, div.—*Charles Baker*, Brook-street, Grosvenor-square, upholsterer, Sept. 18 at 12, London, div. —*George Wm. Jones*, Oxford-street, milliner, Sept. 17 at 11, London, div.—*George Henry Stanley*, Cannon-street-road, St. George's-in-the-East, builder, Sept. 16 at 11, London, div.—*James Barlow*, Birmingham, brassfounder, Oct. 8 at half-past 11, Birmingham, aud. ac.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Frank Rennison, Milk-street, Cheapside, merchant, Sept. 9 at 2, London.—*James Summers*, Hatton-garden, wholesale jeweller, Sept. 9 at 12, London.—*Jonathan Hanbury*, Matfield-green, Brenchley, Kent, grocer, Sept. 9 at 12, London.—*James Cook*, Queen-street, Cheapside, boarding-house keeper, Sept. 9 at 1, London.—*Wm. Downes*, Great Dover-street, Newington, Surrey, smith, Sept. 10 at half-past 11, London. —*Wm. Henry Flux*, Heston, Middlesex, grocer, Sept. 10 at half-past 11, London.—*Robert M'Naught*, Bushey Heath, Hertfordshire, linendraper, Sept. 10 at 12, London.—*Thomas S. Sansbury*, Mark-lane and Seething-lane, London, dealer in hemp, Sept. 10 at 12, London.—*Elizabeth Hill*, Little Moorfields, coach builder, Sept. 10 at half-past 11, London. —*Henry Palmer*, Portsmouth, linendraper, Sept. 21 at half-past 2, London.—*Richard Fernell*, Aldermanbury, London, commission agent, Sept. 18 at half-past 12, London.—*Henry Ivimey Cox*, Stratford, West Ham, Essex, grocer, Sept. 18 at 12, London.—*Charles Hurry Riches*, Cardiff, Glamorganshire, carrier, Sept. 8 at 11, Bristol.—*Wm. Watson*, Birkenhead, Cheshire, licensed victualler, Sept. 9 at 11, Liverpool. —*Robert Keetley*, Great Grimsby, Lincolnshire, ship builder, Sept. 16 at 12, Kingston-upon-Hull.—*G. S. Walton*, Wolverhampton, Staffordshire, ironmonger, Sept. 11 at 10, Birmingham.

To be granted, unless an Appeal be duly entered.

Richard Duncan, Lime-street, London, wine merchant.—*George Williamson*, Stair Mill, Crossthwaite, Cumberland, woollen manufacturer.—*John Barry*, Cashel, near Clonmel, Tipperary, Ireland, linendraper.—*Jonathan Entwistle*, Bury, Lancashire, tailor.—*George Gillett*, Preston, Lancashire, cabinet maker.—*Thomas Lawrenson*, Liverpool, shipsmith.—*Joseph Key*, Crowle, Lincolnshire, ironmonger.

Petition Annulled.

Wm. Henry Brown, Sheffield, merchant.

Partnerships Dissolved.

E. Turner Payne and *J. Kilvert Bartrum*, Bath, attornies and solicitors.—*Richard Chambers Edleston* and *Robt. Chambers Edleston*, Nantwich, Cheshire, attornies and solicitors.

Scotch Sequestrations.

John Kidd, Dundee, mathematical instrument maker.—*Hernulewicz*, *Main*, *& Co.*, Glasgow, wire fence manufacturers.—*Wm. Thompson*, Drumbuoy, Glasford, Lanarkshire, farmer.—*Hugh Smith & Co.*, Greenbank, Pollockshaws, Renfrewshire, and Glasgow, Lanarkshire, Turkey-red dyers.—*John Lamb*, Glasgow, miller.

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Printed by HENRY HANSARD, at his Printing Office, in Parker Street, in the Parish of St. Giles-in-the-Fields, in the County of Middlesex; and Published at No. 3, CHANCERY LANE, in the Parish of St. Dunstan in the West, in the City of London, by HENRY SWEET, residing at No. 34, Porchester Terrace, Bayswater, in the County of Middlesex.—Saturday, August 22, 1857.

The Jurist

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GAZETTES.—FRIDAY, *Aug.* 21.

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GEORGE ARKWRIGHT PEACE and **CHARLES ROSE**, South Wharf, Upper Belgrave-place, Pimlico, and Radnor-street, Chelsea, timber merchants, (trading under the style or firm of G. Arkwright, Peace, & Co.), Sept. 4 at 1, and Oct. 1 at 11, London: Off. Ass. Cannan; Sol. Shepheard, 24, Moorgate-street.—Pet. f. Aug. 11.

CORNELIUS DAVIES and **FREDERICK NORMAN**, Crown Wharf, Great Scotland-yard, Westminster, lime merchants, Sept. 4 at half-past 1, and Oct. 1 at 12, London: Off. Ass. Cannan; Sol. Chidley, 10, Basinghall-street.—Pet. f. Aug. 19.

JOHN BEAN, New London-street, London, and Albert-terrace, Albert-road, Sydenham-park, Kent, coal merchant, Aug. 29 at 11, and Oct. 2 at 2, London: Off. Ass. Cannan; Sols. Norton & Co., New-street, Bishopsgate.—Pet. f. Aug. 18.

ALFRED JOSEPH CHITENDEN CAWTHORN, Stock Exchange, Throgmorton-street, London, and Warwick-terrace, Willow-walk, Bermondsey, Surrey, stock dealer, Sept. 10 at 12, and Oct. 3 at 11, London: Off. Ass. Cannan; Sols. Norton & Co., New-street, Bishopsgate. — Pet. f. Aug. 13.

JOHN THORBURN, Pleydell-street, Fleet-street, London, and Lower Stamford-street, Surrey, bookbinder, Aug. 29 and Oct. 2 at half-past 12, London: Off. Ass. Whitmore; Sol. Innes, 20, Billiter-street.—Pet. f. Aug. 19.

JOHN DOCKREE, Percival-street, Goswell-street, wine merchant, Aug. 31 at 2, and Sept. 28 at 1, London: Off. Ass. Nicholson; Sol. Chidley, 10, Basinghall-street.—Pet. f. Aug. 18.

JAMES CHARLES COCKERELL, late of Eaton-row, Pimlico, Middlesex, but now of Wandsworth-road, Surrey, dealer in horses, Sept. 3 at 1, and Sept. 30 at half-past 11, London: Off. Ass. Stansfeld; Sol. Chidley, 10, Basinghall-street.—Pet. f. Aug. 20.

ROBERT JOHNSON, Phœnix-place, Calthorpe-st., Gray's-inn-road, Middlesex, and Bell-yard, Gracechurch-street, London, builder, Sept. 3 at half-past 12, and Sept. 30 at 2, London: Off. Ass. Graham; Sols. Young & Plews, Mark-lane.—Pet. f. Aug. 20.

WILLIAM EDWARD HUNT, Strand, licensed victualler, Sept. 3 at 12, and Sept. 30 at half-past 1, London: Off. Ass. Stansfeld; Sol. Bichley, 2, Surrey-street, Strand.—Pet. f. Aug. 20.

GEORGE FOX, Wells-mews, Wells-street, Oxford-street, fret cutter, Sept. 3 at 12, and Sept. 30 at 1, London: Off. Ass. Stansfeld; Sol. Neate, 14, Southampton-buildings, Chancery-lane.—Pet. f. Aug. 18.

WILLIAM STANDING, late of Whitechapel-road, but now of Kingsland-crescent, Kingsland-road, engineer, Sept. 5 and 30 at 12, London: Off. Ass. Stansfeld; Sol. Jones, 20, King's Arms-yard, Coleman-street.—Pet. f. Aug. 17.

THOMAS DALE. Leek, Staffordshire, dealer in drainage pipes, Sept. 3 and 25 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Challinor, Hanley; Smith, Birmingham.—Pet. d. Aug. 18.

SAMUEL MURFIN, Litchurch, Derbyshire, innkeeper, Sept. 8 and 22 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Gamble, Derby; Knight, Birmingham.—Pet. d. Aug. 12.

THOMAS NATHANIEL ASHMAN, Yeovil, Somersetshire, currier, Sept. 1 and Oct. 8 at 11, Exeter: Off. Ass. Hirtzel; Sols. Garland & Fear, Sherborne and Yeovil; Terrell, Exeter.—Pet. f. Aug. 12.

ANTHONY GARFORTH, **PAUL GARFORTH**, and **ENOCH GARFORTH**, Earlsheaton, Yorkshire, manufacturers, (trading under the style or firm of Anthony Garforth & Sons), Sept. 8 at half-past 11, and Oct. 9 at 11, Leeds: Off. Ass. Hope; Sols. Bond & Barwick, or Cariss & Cudworth, Leeds.—Pet. d. Aug. 18.

WILLIAM NEWSOME and **EDWARD WILLIAM HAMMOND**, Staincliffe, Batley, Yorkshire, woollen manufacturers, (carrying on business in Heckmondwike, Birstall, under the style or firm of Newsome & Hammond), Sept. 8 at 12, and Oct. 9 at 11, Leeds: Off. Ass. Hope; Sols. Bond & Barwick, or Cariss & Cudworth, Leeds.—Pet. d. Aug. 18.

THOMAS WELBORN POTTER, York, corn merchant, Sept. 15 and Oct. 9 at 11, Leeds: Off. Ass. Hope; Sols. Leeman & Clarke, York; Blackburn, Leeds.—Pet. d. Aug. 18.

EDWARD WILLIAM HAMMOND, Staincliffe, Yorkshire, woollen manufacturer, Sept. 8 at 12, and Oct. 9 at 11, Leeds: Off. Ass. Hope; Sols. Bond & Barwick, Leeds.—Pet. d. Aug. 13.

JOHN GATTRELL the younger, late of Askham Richard, near York, but now a prisoner for debt in York Castle, farmer, Sept. 1 at half-past 11, and Oct. 2 at 11, Leeds: Off. Ass. Hope; Sols. Mason, York; Cariss & Cudworth, Leeds.—Pet. d. Aug. 18.

JESSE BUSFIELD, Yeadon, Yorkshire, cloth manufacturer, Sept. 7 at half-past 11, and Oct. 16 at 11, Leeds: Off. Ass. Hope; Sols. Rawson & Co., or Bond & Barwick, Leeds.—Pet. d. Aug. 14.

WILLIAM ANFIELD, Great Driffield, Yorkshire, millwright, Sept. 9 and Oct. 7 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Shaw, Derby; Preston, Leeds.—Pet. d. Aug. 4.

ALICE GORDON, Sunderland, Durham, shipowner, Aug. 28 at 11, and Oct. 6 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sol. Brignal, Durham.—Pet. f. Aug. 12.

CHRISTOPHER FAIRLAMB, Newcastle-upon-Tyne, cheesemonger, Aug. 28 and Oct. 9 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Watson, Newcastle-upon-Tyne; Harwood, 10, Clement's-lane, Lombard-street, London.—Pet. f. Aug. 8.

MEETINGS.

Wm. Wayre, Oxford-street, mantle warehouseman, Sept. 1 at 11, London, last ex.—*James S. Tripp*, Lombard-street Chambers, Clement's-lane, City, dealer in mining shares, Sept. 2 at 1, London, aud. ac.—*Wm. H. Richards* and *S. L. Borkheim*, Gracechurch-street, London, and Balaklava, Crimea, merchants, Sept. 2 at 12, London, aud. ac.—*Robert J. Norton*, Fleet-street, ladies' outfitter, Sept. 2 at 12, London, aud. ac.—*John Fleming*, High-street, Wapping, nautical instrument manufacturer, Sept. 2 at 12, London, aud. ac.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Easton, Clapham-road, Surrey, builder, Sept. 11 at 11, London.—*Thomas Jones*, Aberavon and Cwmavon, Glamorganshire, general-shop keeper, Sept. 21 at 11, Bristol.—*W. Ebenezer Pincott*, Cardiff, Glamorganshire, wholesale tea dealer, Sept. 15 at 11, Bristol.—*Joseph Hill*, Chester, cordwainer, Sept. 14 at 12, Liverpool.—*Sampson Hackett*, Cradley Heath, Staffordshire, draper, Sept. 11 at 10, Birmingham.

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Philip Rimer, Gravesend, Kent, cigar merchant.—*John Burgoyne Reed*, Cardiff, Glamorganshire, shipbroker.—*John Betts*, Bristol, grocer.—*George Ellis*, South Brent, Devonshire, miller.—*Richard Nattle Clemens*, Liskeard, Cornwall, tailor.—*Thomas Huntley*, Sunderland, Durham, grocer.—*T. Laidler*, Jarrow, Durham, coke burner.—*J. Carr*, Wallsend, *William Ridley Carr*, Scotswood, Northumberland, and *H. Frederick Scott*, Gateshead, Durham, iron manufacturers.—*James Bradshaw*, Burnley, Lancashire, cotton manufacturer.—*Edward Bannister*, Woodsetton, Sedgley, Staffordshire, maltster.

PETITIONS ANNULLED.

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SCOTCH SEQUESTRATIONS.

Wm. Pearson, Glasgow, spirit merchant.—*D. Macleod & Co.*, Greenock and Glasgow, shipbuilders.—*James Mitchell*, Perth, merchant.

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THE JURIST.

LONDON, AUGUST 29, 1857.

Our readers are, no doubt, aware, that in consequence of the urgent necessity for amending the Joint-stock Companies Act of last session, which had already become apparent, another act was introduced at an early period of this session, and has already become law. (20 & 21 Vict. c. 14). We now propose, without further preface or comment, to direct attention to its principal provisions; and in so doing we shall present our remarks rather according to the correct classification of its clauses than according to the order in which they appear in the act. After providing that the two acts shall, as far as possible, be read together, there are certain clauses providing for the conversion of paid-up capital into stock, and extending the provisions of the original act of 1856, (which is throughout called "the principal act"), with reference to shares, to the capital when so converted into stock. (Sects. 5 to 8, and sect. 30). Sect. 9 extends the power of the Court, under sect. 25 of the principal act, with reference to disputes about the register, and enables it to decide on any question which it may be necessary or expedient to decide for the rectification of the register relating to the title of any person, party to such proceeding, to have his name entered in or erased from the register, whether the question arises between him and the company, or between him and any other holder or alleged holder of shares or stock. Sect. 10 imposes a penalty on the company for not complying with the 27th section of the principal act.

Then, with reference to winding up, there are certain clauses (sects. 11 and 12) providing for the arrest of any contributory likely to abscond or make away with his property, and for his discharge upon application to a judge. Sect. 13 makes a call on a contributory, when the company is being wound up, a specialty debt. There are a series of clauses with reference to official liquidators, extending the powers of the Courts and of the liquidators, and more strictly defining the powers of the latter in some respects, and giving remedies against them for default of duty.

Then there are three very important practical clauses, the 4th, 22nd, and 24th. The 4th provides, that on payment of 5*s*. the registrar shall give a certificate of incorporation of any company to any person applying for it, and then says that such certificate shall be admissible in evidence in like manner as the certificate of incorporation required to be given by the principal act. The latter part of the section is rather incomprehensible, for by the principal act it is said that the registrar shall certify under his hand that the company is incorporated, and that the certificate of incorporation so given shall be conclusive evidence that the requirements of the act have been complied with. The early part of the section says that on a particular event the registrar shall certify, and the latter that the certificate given by the registrar shall be conclusive evidence, as above; and we suppose that it was imagined that the only certificate which would have that effect would be the one originally given, and that therefore it was necessary to give the same weight to any other which may be given; but if that be the object of the new provision, it is using very strange language to say that such other certificate shall be as admissible in evidence as the former. It is difficult to suppose that the Legislature could make such a confusion between the admissibility of evidence and its weight; still, if that be not the object of the provision, we are at a loss to see what is; for one certificate given by the proper officer who is required to certify would be just as admissible in evidence as another, and there could be no object in making so wholly unnecessary a provision. We are therefore driven to adopt the above conclusion, although it may seem to involve some inaccuracy of language, but not greater than we find in other acts of Parliament on the same subject. For example, we find that by the 19th section of the Joint-stock Banks Act a certified copy of the memorial is to be received in evidence as proof of its contents; whereas by the 15th section of the old Joint-stock Companies Act, which, it will be recollected, was passed in the same year, and was intended to carry out the same principles as the former, certified copies of the returns required to be made by the act are simply to be received in evidence, without proof of the signature, &c. But although this may have been the object of the proviso which we are discussing, it certainly is open to doubt how far the presumed intention has been carried out, and whether any other certificate is conclusive evidence than that which the registrar is required to give under the 13th section of the principal act.

The 22nd section removes an important difficulty, by providing that in case of any alteration of the rules in Table (B.) being made by the Board of Trade in pursuance of its statutory powers, such alteration shall not affect any companies already constituted, unless they think fit to adopt it by a special resolution.

The 24th section gives to the defendant, in any action at the suit of a company with limited liability, the right to compel such company to give security for costs, and to have the proceedings stayed in the meantime, and is, we have no hesitation in saying, a most valuable clause, but at the same time is hardly a sufficient remedy for the evil at which it is aimed. The monstrosity of allowing a company to bring an action in formâ pauperis—for that was really the effect—and leaving you liable for costs in case it should succeed, was too great to be allowed to continue. But is the evil less when the company is defendant? Let us suppose an extreme case, for the purpose of testing the operation of the law. A company owes you 1000*l.*; its capital is 1000*l.*, which is paid up, and in hand. Out of mere wantonness the company refuses to pay you, or perhaps harasses you with a vexatious defence, which may compel you to go to the House of Lords. It would be hard enough if you only had to pay your own costs, as in fact you would have to do under such a state of circumstances; but what is the result? In the meantime their costs have been paid out of the capital, which ought to have gone to pay your debt; and when finally you get judgment, instead of there being 1000*l.* to meet your debt, there is only 500*l.*; and although you are successful, you have been paying the costs on both sides; or perhaps they may put you to wind up the company, and pay the costs of that proceeding also; and notwithstanding all this, they are in no worse position, and can be in no worse, for their liability is limited to the capital so paid up, and they will only have to pay the same amount as they would have done in the first instance, but you will have only the jackal's share. It will, however, be said, "That is a case which, though possible, is so extreme as to form no substantial objection to the law." But that observation goes only to degree, and if the evil be one which is at all likely to exist, though only in degree, it is one so grave that a remedy ought speedily to be provided. That it will exist is probable; that it does exist already we have some evidence; and we submit that its possible existence is an unanswerable argument in support of the view which we have put forward in this journal, that no man in his senses ought to have any dealings with these companies except the merest ready-money transactions. To take credit is almost as unsafe as to give it: you must have no transactions which can by any possibility involve you in litigation, unless you are willing to run the risk of a greater or less loss.

The remaining sections of the act relate to the status of companies which may or must be registered under this and the principal act, and to the consequences which may accrue to persons trading in partnership contrary to the provisions of the act. As to the latter part, the 4th section of the principal act, which made the members of any partnership having gain for its object, and consisting of more than twenty persons, severally liable for the debts of the concern, unless forming a company registered under the act, or being within the exceptions of that clause, was supposed to leave it doubtful whether companies or partnerships formed for the purpose of some profit or advantage to the individual members, but not to the company at large, were within the provision, as in the case of the companies which formed the subject of *Reg.* v. *Whitmarsh* (15 Q. B. 600; 15 Jur., part 1, p. 7; 19 L. J., Q. B., 469) and *Bear* v. *Bromley*, (16 Jur., part 1, p. 450; 21 L. J., Q. B., 354). That section has therefore been repealed, and re-enacted in an altered form, (sect. 3), the words now being, "having for its object the procurement of gain *to the partnership.*" So that that point is set at rest. There is also an alteration in the description in the second class of trading societies allowed by this section, on which we may possibly have to comment by and by; that class is now described as "companies *incorporated or otherwise legally constituted by or in pursuance of any act of Parliament*, royal charter, or letters-patent," instead of, as in the repealed section, "companies authorised to carry on business by some *private* act of Parliament, or by royal charter or letters-patent."

Our readers will probably recollect that we pointed out what appeared to us very important defects in the wording of the sections which form the fifth part of the act of 1856, relating to the repeal of the former acts and the temporary provisions. The important sections (sects. 107, 108, and 113) are entirely repealed, and other provisions substituted. But before adverting to the change it will be advisable for us to consider the difficulties which existed, or appeared to exist, on the construction of the repealed sections. Companies existing at the time of the passing of the act of 1856, and incorporated under the 7 & 8 Vict. c. 110, were required to be registered under the new act on or before the 3rd November, 1856, but there was nothing apparently to compel such companies to be so registered; and the latter part of the 107th section providing that the repeal of the old act should not affect such companies until registered anew under the act of 1856, a doubt arose, upon the construction of those sections, as to what was the position of such companies having neglected to register by the 3rd November, or refusing to do so altogether, and incidentally as to the effect produced on insurance companies by the absolute terms in which the stat. 7 & 8 Vict. c. 110, was repealed. We do not propose in any way to renew the discussion of those sections, but only to point out the reason why they required to be altered, in order that we may understand the alterations which have taken place. The 27th section of the act of this year extends the time for the registration of the old companies to the 2nd November, 1857, by which time they are required to be registered; and the 28th section, in order to compel them to be so registered, provides the following penalties in case of default—first, that the company shall be incapable of suing in any court of law or equity; secondly, that no dividend shall be payable; and, thirdly, that each director or manager of the company shall be liable to a penalty of *5l.* per day during the time of such default; but, except in these respects, the company will remain unaffected, and subject to the provisions of the old act, which for that purpose is to be considered as unrepealed until it is so registered. Also, by the 25th section, the registration of companies which were registered under the act of 1856, after the 3rd November, but before the passing of that of 1857, is to be considered as effectual as if it had taken place before that day: so that in these two respects the doubts which existed are entirely removed. Then the 29th section provides for the case of other lawfully constituted companies, and in substance re-enacts the latter part of the 110th section; but the description of companies which *may* be registered at their own option is slightly varied; it is now, "any company consisting of seven or more shareholders, *having capital of fixed amount, divided into shares*, also of fixed amount, duly constituted by law prior to the passing of the act, and not being a company hereby required to be registered." There was another question of some importance arising on the construction of the 113th section, which made the deed of settlement or charter of an existing company, when registered anew under the principal act, "regulations of the company within the meaning of the act," and declared that all the provisions of the act should apply to the company in the same manner as if it had been originally incorporated under that act; and it was doubted whether that effectually excluded the application of Table (B.), subject to the deed or charter, and also whether there was power to alter the deed or charter by special resolution; and to meet that doubt the section is repealed, and in lieu thereof it is provided that all the provisions contained in the act of Parliament, deed of settlement, letters-patent, or other instrument of incorporation constituting or regulating the company, shall be deemed to be regulations of the company *in the same manner* as if they were contained in any registered memorandum and articles of association, and then that the company shall be treated in all respects as any other company formed under the act, except subject to certain provisoes. First, Table (B.) is not to apply to such a company, unless adopted by special resolution. Secondly, no company shall have power to alter any provision contained in any act of Parliament relating to the company at all; or, thirdly, in any letters-patent, without the consent of the Board of Trade. Lastly, no company is to alter any of the provisions in the instrument which incorporates it, which, by the 5th section of the principal act, are required to be prescribed by the memorandum of association, and not authorised to be altered by the acts of 1856 and 1857.

We have now presented to our readers as briefly as possible the principal changes in the law, and in so doing we have not attempted to discuss in detail the effect of those changes in particular instances, as it is manifest that that could not be done within the limits of a single article. There will certainly be many points open to discussion, and of no small importance; as, for instance, the position of insurance companies, which is rendered still more doubtful than before; and unless the construction for which we contended, viz. that the 2nd section overrides the whole act, and leaves the old statute unrepealed, so far as they are concerned, be correct, the utmost confusion will be found to prevail. But we must defer our remarks upon these points to a subsequent occasion. We will only remark, in conclusion, that the alterations which have been already made in the principal act shew that the remarks which we ventured to make upon the wording of the repealed sections, and for the rigour of which we were somewhat called to account, were fully justified.

THE THIRD REPORT OF THE STATUTE-LAW COMMISSIONERS.

To the Queen's Most Excellent Majesty in her High Court of Chancery.

We, your Majesty's Commissioners for Consolidating the Statute Law, do hereby humbly make this our Third Report to your Majesty.

In our First Report (dated July 10, 1855) we gave a list of the works which we had caused to be undertaken down to that date, which were as follows:—

1. Consolidation of the National Debt Acts.
2. Consolidation of the Statutes relating to Masters and Servants or Workmen.
3. Consolidation of the Criminal Law, (by Mr. J. J. Lonsdale).
4. Consolidation of the Stamp Laws.
5. Consolidation of the Statutes relating to Bills of Exchange and Promissory Notes.
6. Consolidation of the Statutes relating to Prisons.
7. Consolidation of the Law of Landlord and Tenant.
8. Consolidation of the Statutes relating to Leases by Ecclesiastical and Collegiate Corporations.
9. Bill to consolidate and amend the Copyhold Commissioners Acts.

As we have found it expedient, on further consideration, to modify in some respects the plan on which we were then proceeding, it is necessary that we should make a further statement as to the present state of the works referred to.

The bills Nos. 1 and 6 in the above list, being consolidations of the statutes relating to the national debt and to prisons, we have not thought it expedient to revise at present, because we conceive that they can be brought forward more advantageously in connexion with the whole of the class or division of law to which they respectively belong, after we have made some further progress in the general distribution of the contents of the statutes upon fixed principles of arrangement. The consolidation of the national debt acts has, however, been submitted to the Chancellor of the Exchequer for his consideration.

The bill No. 2 is now in an advanced state of preparation.

The bill No. 5 in the list—a consolidation of the law of bills of exchange and promissory notes—has been revised, and now forms part of a group of consolidations of the mercantile law, to which we shall presently advert.

With regard to No. 3 in the above list—the consolidation of the criminal law—Mr. J. J. Lonsdale, who was originally employed in the work, having been appointed a county court judge, was unable to proceed with it, and we thereupon intrusted the work to five other gentlemen, who have framed a consolidation of the general criminal law, so far as relates to indictable offences, in eight bills, of which we shall speak more at length hereafter.

No. 4 in the above list—the consolidation of the stamp laws—which was undertaken with the concurrence of the late Mr. John Wood when chairman of the Board of Inland Revenue, has been now completed and delivered to us, and has been referred to the present head of that board, and to the Chancellor of the Exchequer, for consideration.

Nos. 7 and 8 in the list—the consolidation of the law of landlord and tenant, and the consolidation of the statutes relating to ecclesiastical and collegiate leases—have both been now completed and delivered to us by the draftsmen, and form part of a group of consolidations of the law of property, to which we shall presently advert.

The bill for consolidating and amending the copyhold commissioners acts (No. 9 in the above list) has not yet been brought in by the Lord Chancellor, it having been deemed expedient by his Lordship to effect certain desired amendments of the law by a short separate act, which should afterwards be incorporated by consolidation with the other acts.

We now proceed to state the progress that we have made since the date of our First Report.

I. We have given much consideration to the question of the appointment and functions of an officer for the revision of current legislation. The result of our deliberations was embodied in a separate Report, which we submitted to your Majesty on the 5th March, 1856.

II. In order to assist us in arranging those parts of the contents of the Statute-book which it may be deemed expedient to consolidate, and with particular reference to the distinction pointed out in our Report of the 5th March, 1856, between the general laws forming the permanent rule of civil conduct and those which are administrative, transitory, or local, we some time since gave instructions for an examination of the Statute-book, and for a classification, in the manner explained in the last-mentioned Report, of such acts as are not repealed or expired, or have not otherwise ceased to be operative.

As this work is proceeded with, a "register" is made of the acts of each session as they are examined, shewing the acts wholly or partially repealed or otherwise affected by the acts registered, the subsequent acts by which the acts registered are themselves repealed or otherwise affected, and which of the acts registered are expired, or are otherwise no longer in operation, and classifying all the acts still in force.

In an Appendix to this Report will be found papers explaining more in detail the plan of the above work, together with a specimen of the register.

The register and classified arrangement, by affording a comprehensive view of the contents of the Statute-book, will greatly assist us in determining what portions of the statute law can be usefully consolidated; and when they have been completed, and when it has been ascertained further what statutes are impliedly repealed, will in fact shew at once what is the existing general statute law. The register will also materially facilitate the actual work of consolidation; and, independently of this, we conceive that it would, if published, be found valuable as a work of reference for general use.

The classified arrangement in this register of the existing acts will also indicate the probable effect of a similar classification of future acts.

III. Until the revision above mentioned has been completed, and the whole contents of the Statute-book are distributed under proper heads, there will be a risk that any groups of statutes which may be selected for consolidation may ultimately be found to omit some enactments which ought to have been included under the same head, or to include some which ought to have been placed under some other head. We have not, however, thought it necessary to suspend the process of consolidation on this account, because it has appeared to us that there are some groups of statutes which may be ascertained with tolerable accuracy, and must necessarily form separate heads under any arrangement, and which may therefore be usefully consolidated at once. The statutes relating to criminal law, to mercantile law, and to the law of property seem to be distinct groups of this kind, and we have therefore completed the consolidation of a large section of one of those groups, and have made considerable progress with the other two, as we will now proceed to detail.

(1). A consolidation of the general criminal law, so far as relates to indictable offences, was laid on the table of the House of Lords by the Lord Chancellor at the end of the session of 1856, in eight bills, comprising the following subjects:—

1. Offences against the person.
2. Offences against property.
3. Malicious injuries to property.
4. Forgery.
5. Treason and offences against the State.
6. Offences of a public nature.
7. The law of accessories.
8. Criminal procedure.

These bills had been revised and settled with great care by Lord Wensleydale, the late Chief Justice Jervis, Sir Fitzroy Kelly, and Mr. Greaves.

On again revising these bills, with a view to their introduction into Parliament in the present session, we have, at the suggestion of the Lord Chancellor, been led to modify to a certain extent the views which we entertained when we first gave instructions for their preparation.

These bills were originally drawn on the principle that no alteration should be made in the law, and as little as possible in the language of the statutes consolidated; and they were confined to indictable offences, in accordance with the division adopted by the former Criminal-law Commissioners; but it appeared to us, on further consideration, that if the restrictions thus imposed on the draftsmen were relaxed to a moderate extent, the bills would be much more satisfactory.

We would therefore propose that the introduction of these bills, and of all other consolidation bills, should be made an opportunity for effecting some improvements in the law at the same time—not improvements which are the subject of any differences of opinion, or would raise any discussion, but merely remedying such defects as may be said to be accidental, and not owing to any deliberate intention on the part of the Legislature—such as the removal of unnecessary variations between enactments relating to offences of the same nature now existing in consequence of such enactments having been passed at different times or framed by different persons, the supplying of admitted deficiencies, and the correction of admitted inconveniences.

(*To be concluded in our next number.*)

TUESDAY, *Aug.* 25.

BANKRUPTS.

GEORGE HOLT SKINNER, Queen-street, Cheapside, corn merchant, Sept. 5 at 11, and Oct. 3 at half-past 11, London: Off. Ass. Whitmore; Sols. Pocock & Poole, 58, Bartholomew-close.—Pet. f. Aug. 22.

PETER LAWRENCE, Eastcheap, City, fruit dealer, and Windsor-place, Old Kent-road, Surrey, grocer, Sept. 5 at 11, and Oct. 3 at 12, London: Off. Ass. Whitmore; Sols. Hill & Mathews, 1, Bury-court, St. Mary-axe.—Pet. f. Aug. 14.

JOHN STOKES, St. George-street, St. George-in-the-East, corn chandler, Sept. 5 and Oct. 7 at half-past 11, London: Off. Ass. Whitmore; Sol. Goddard, 101, Wood-street, Cheapside.—Pet. f. Aug. 22.

JOHN SWAN, Leadenhall-street, merchant, Sept. 3 at half-past 1, and Oct. 7 at 11, London: Off. Ass. Graham; Sols. Thomas & Hollams, 31, Commercial Sale-rooms, Mincing-lane.—Pet. f. Aug. 22.

THOMAS ELDRIDGE, Upper North-place, Gray's-inn-road, and Brownlow-mews, Guildford-street, coachmaker, Sept. 8 at half-past 12, and Oct. 6 at 2, London: Off. Ass. Lee; Sol. Ward, 35, Burton-crescent.—Pet. f. Aug. 22.

SAMUEL COOKS, Dudley, Worcestershire, leather dealer, Sept. 9 and 30 at half-past 10, Birmingham: Off. Ass. Christie; Sols. Bourne & Co., Dudley; Bousfield, 14a, Philpot-lane, Eastcheap, London.—Pet. d. Aug. 11.

WILLIAM STEWARD, Darlaston, Staffordshire, clothier, Sept. 14 and 30 at 10, Birmingham: Off. Ass. Christie; Sols. E. & H. Wright, Birmingham.—Pet. d. Aug. 24.

NATHANIEL RADMORE HAMMETT, Cardiff, Glamorganshire, grocer, Sept. 7 and Oct. 6 at 11, Bristol: Off. Ass. Miller; Sols. Leman & Humphrys, Bristol.—Pet. f. Aug, 14.

EDWARD PETTER and **WILLIAM ARUNDEL OATEY**, Barnstaple, Devonshire, ironfounders, Sept. 1 and Oct. 8 at 11, Exeter: Off. Ass. Hirtzel; Sol. Turner, Exeter.—Pet. f. Aug. 21.

JAMES PHILLIPS, Audlem, Cheshire, draper, Sept. 9 and Oct. 5 at 11, Liverpool: Off. Ass. Morgan; Sol. Paterson, Liverpool.—Pet. f. Aug. 21.

JOHN LONGTON, Liverpool, shipbroker, Sept. 10 and Oct. 2 at 11, Liverpool: Off. Ass. Bird; Sols. Morris & Son, Liverpool.—Pet. f. Aug. 21.

JOHN PEACOCK, Manchester, starch manufacturer, Sept. 4 and Oct. 1 at 12, Manchester: Off. Ass. Hernaman; Sols. Sale & Co., Manchester.—Pet. f. Aug. 21.

MEETINGS.

Tilden Smith, *James Hilder*, *George Scrivens*, and *Francis Smith*, Hastings, Sussex, bankers, Sept. 5 at half-past 11, London, to appoint inspector of sep. est. of *F. Smith*.—*Joel Parry* and *J. Parry*, Houghton-street, Clare-market, builders, Sept. 4 at 11, London, aud. ac.—*John Dance* and *Henry Wene*, Fairford, Gloucestershire, grocers, Sept. 24 at 11, Bristol, aud. ac. joint est., and aud. ac. sep. est. of *J. Dance*.—*Wm. Ebenezer Pincott*, Cardiff, Glamorganshire, wholesale tea dealer, Sept. 17 at 11, Bristol, aud. ac.—*John Watkins*, Crickhowell, Brecknockshire, shoemaker, Sept. 24 at 11, Bristol, aud. ac.—*B. Richards*, Newport, Monmouthshire, sailmaker, Sept. 24 at 11, Bristol, aud. ac.—*C. Faulkner*, Birmingham, haberdasher, Oct. 1 at half-past 11, Birmingham, aud. ac. and div.—*T. H. Griffiths*, Worcester, coal dealer, Sept. 10 at half-past 11, Birmingham, aud. ac.—*Thomas Bale*, Kidderminster, builder, Oct. 2 at half-past 11, Birmingham, aud. ac.—*William Clews*, Wednesbury, Staffordshire, baker, Oct. 9 at half-past 11, Birmingham, aud. ac.—*Richd. Gomer*, Dudley, Worcestershire, dealer in fancy goods, Sept. 10 at half-past 11, Birmingham, aud. ac.—*William Edmonds*, Kidderminster, hosier, Oct. 22 at half-past 11, Birmingham, aud. ac.—*Barnett Behrens*, Birmingham, general dealer, Oct. 1 at half-past 11, Birmingham, aud. ac.—*Thomas Carrier*, Wolverhampton, general dealer, Sept. 10 at half-past 11, Birmingham, aud. ac.—*James Ashford*, Southam, Warwickshire, grocer, Sept. 10 at half-past 11, Birmingham, aud. ac.—*Thomas Rowe* and *John Walter Trenery*, Lincoln, ironmongers, Sept. 2 at 12, Kingston-upon-Hull, aud. ac.—*George William Jones*, Oxford-street, milliner, Sept. 17 at 11, London, div.—*William Stephens*, Gloucester, cattle salesman, Sept. 17 at 11, Bristol, div.—*Aaron Crossfield*, Ty Mawr, Lanwonne, Glamorganshire, coal miner, Oct. 1 at 11, Bristol, fin. div.—*Henry Mundy*, Gloucester, ironmonger, Sept. 17 at 11, Bristol, div.—*Sampson Hackett*, Cradley-heath, Staffordshire, draper, Sept. 24 at half-past 11, Birmingham, aud. ac.; Sept. 25 at half-past 11, div.—*James Peart*, Birmingham, bookseller, Sept. 30 at 10, Birmingham, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Henry Simpson, Ipswich, butcher, Sept. 15 at half-past 1, London.—*Edwin Waterhouse*, Dewsbury, Yorkshire, carpet manufacturer, Sept. 15 at 12, Leeds.—*Richard Winter Neave*, Market Rasen, Lincolnshire, and Sheffield, Yorkshire, miller, Sept. 16 at 12, Kingston-upon-Hull.

PETITIONS ANNULLED.

Charles Knowsley, Exeter, draper.—*John Joseph Buggins*, Birmingham, silver plater.—*Joseph Crofts*, Walsall, Staffordshire, builder.

SCOTCH SEQUESTRATIONS.

William Patison and *John Forrester*, Edinburgh, drapers.—*Colin Dunbar*, Janetstown, Latheronwheel, Caithness-shire, innkeeper.—*Burrowes Willcocks Arthur Sleigh*, Glasgow, merchant.—*Wm. Murray & Co.*, Aberdeen, warehousemen.—*Andrew Liston*, Newhaven, grocer.

MEMBER RETURNED TO SERVE IN PARLIAMENT.—Henry Edwards, Esq., for the borough of Beverley, in the room of Edward Auchmuty Glover, Esq., whose election has been adjudged void.

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.—William Emerson Chapman the younger, Gent., of Boston and Donnington, Lincolnshire, to be a commissioner to administer oaths in the High Court of Chancery in England.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—Henry Godwin, of Newbury, Berkshire, in and for the county of Berks; Stephen Plummer the younger, of Canterbury, in and for the city of Canterbury, also in and for the county of Kent; William Merriman Ley, of Bishops Stortford, Hertfordshire, in and for the county of Herts, also in and for the county of Essex; Frederick Valpy Graham, of Kingsclere, Hampshire, in and for the county of Hants, also in and for the county of Berks; William Hilliard Dunster, of Henrietta-street, Cavendish-square, in and for the city of London, also in and for the county of Middlesex, and city and liberties of Westminster; Thomas Oliver, of Old Jewry-chambers, in and for the city of London, also in and for the city and liberties of Westminster, and the counties of Middlesex and Surrey; Samuel Cook Frankish, of New Palace-yard, Westminster, in and for the city and liberties of Westminster, also in and for the counties of Middlesex and Surrey; John Jones Bush, of Trowbridge, Wiltshire, in and for the county of Wilts, also in and for the county of Somerset; Richard Reeves Wilkinson, of Gosport, Hampshire, in and for the county of Hants; and Francis Richard Southern, of Ludlow, Shropshire, in and for the county of Salop.

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Printed by HENRY HANSARD, at his Printing Office, in Parker Street, in the Parish of St. Giles-in-the-Fields, in the County of Middlesex; and Published at No. 3, CHANCERY LANE, in the Parish of St. Dunstan in the West, in the City of London, by HENRY SWEET, residing at No. 34, Porchester Terrace, Bayswater, in the County of Middlesex.—Saturday, August 29, 1857.

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No. 139, NEW SERIES.—Vol. III.
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GAZETTES.—Friday, *Aug.* 28.

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CHARLES HENRY WHITE, Southampton, chinaman, Sept. 5 at 12, and Oct. 8 at half-past 1, London: Off. Ass. Cannan; Sols. Reece & Co., 10, St. Swithin's-lane; Francis, Birmingham.—Pet. f. Aug. 13.

FREDERICK LEWIS, Surrey-place, Kennington-park, Surrey, surgeon, Sept. 10 at 11, and Oct. 9 at 12, London: Off. Ass. Whitmore; Sol. Lever, 1, Frederick's-place, Old Jewry.—Pet. f. Aug. 27.

CALEB PIZZIE, Saffron Walden, Essex, and Windsor-terrace, City-road, Middlesex, carpet manufacturer, Sept. 5 at half-past 11, and Oct. 8 at 11, London: Off. Ass. Cannan; Sol. Roscoe, 14, King-street, Finsbury-square.—Pet. f. Aug. 25.

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FREDERICK RICKARDS, Farnborough, Hampshire, carrier, Sept. 14 and Oct. 14 at 12, London: Off. Ass. Graham; Sols. Bell & Co., 21, Abchurch-lane, City.—Pet. f. Aug. 19.

WILLIAM HART, Charlotte-terrace, Great Charlotte-st., Blackfriars-road, Lambeth, wine merchant, Sept. 8 at 2, and Oct. 6 at 12, London: Off. Ass. Lee; Sol. Moon, 6, Bank-chambers, Lothbury.—Pet. f. Aug. 24.

CHARLES WALKER and FREDERICK JAMES WALKER, Commercial-road East, drapers, Sept. 9 at 2, and Oct. 13 at 1, London: Off. Ass. Lee; Sol. Tucker, 25, Clement's-lane, Lombard-street.—Pet. f. Aug. 27.

THOMAS BENNETT, Derby, miller, Sept. 15 and 29 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Lees, Nottingham.—Pet. d. Aug. 25.

CHARLES JOHN CARR, Belper, Derbyshire, nailmaker, Sept. 8 and Oct. 6 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Haywood, Derby.—Pet. d. Aug. 26.

JOSHUA HORNER HOLE, Birkenhead, Cheshire, broker, Sept. 10 and Oct. 1 at 12, Liverpool: Off. Ass. Turner; Sol. Massey, Chester.—Pet. f. Aug. 19.

CHRISTOPHER BANCKS, Liverpool, ship chandler, Sept. 9 and Oct. 6 at 11, Liverpool: Off. Ass. Cazenove; Sol. Etty, Liverpool.—Pet. f. Aug. 25.

Meetings.

Wm. Hadfield, Cockspur-street, merchant, Sept. 8 at 12, London, last ex.—*George Whieldon* the younger, Wyke House, near Wincanton, Gillingham, Dorsetshire, brickmaker, Sept. 9 at 1, London, last ex.—*Matthew Smith*, Sheffield, Yorkshire, steel manufacturer, Sept. 19 at 10, Sheffield, last ex.—*Thomas Pepper*, Mountfield, Sussex, wheelwright, Sept. 9 at 11, London, and. ac.—*Isaac Gunton*, Manea, Isle of Ely, Cambridgeshire, grocer, Sept. 9 at half-past 11, London, aud. ac.—*G. Archer*, Great Clacton, near Colchester, Essex, seed merchant, Sept. 9 at 12, London, aud. ac.—*Charles C. Mercer*, Margate, Kent, builder, Sept. 19 at 12, London, aud. ac.—*George R. Booth*, Portland-place, Wandsworth-road, Surrey, engineer, Sept. 16 at 1, London, aud. ac.—*Thomas Jones*, Aberavon and Cwmavon, Glamorganshire, general-shop keeper, Oct. 8 at 11, Bristol, aud. ac.—*Samuel Gundry* and *Walter E. Gundry*, Bridport, Dorsetshire, bankers, Sept. 17 at 11, Exeter, aud. ac.; Sept. 24 at 11, div.—*Christopher S. Flood* and *Harry B. Lott*, Honiton, Devonshire, bankers, Sept. 17 at 11, Exeter, aud. ac., and Sept. 24 at 11, div., sep. est. of *Harry B. Lott*.—*Thomas Rodger*, Attercliffe-cum-Darnall, Yorkshire, grocer, Sept. 19 at 10, Sheffield, div.

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Tuesday, *Sept.* 1.

Bankrupts.

RICHARD ELLIOTT, Wellington-road, Kentish-town, licensed victualler, Sept. 10 at half-past 12, and Oct. 9 at 1, London: Off. Ass. Cannan; Sol. Ivimey, 30, Southampton-buildings.—Pet. f. Aug. 29.

JOHN TOWNSEND, Greenwich and Charlton, Kent, auctioneer, Sept. 12 at 12, and Oct. 9 at 2, London: Off. Ass. Whitmore; Sols. King & George, 35, King-street, Cheapside.—Pet. f. Aug. 28.

FREDERICK WINSTONE, St. James-street, Islington, Middlesex, (carrying on business at Liverpool-street, Old Broad-street, London), gold and silver pencil case maker, Sept. 11 at half-past 12, and Oct. 14 at 1, London: Off. Ass. Stansfeld; Sol. Stafford, 17, Wellington-street North, Strand.—Pet. f. Aug. 27.

GEORGE GULL, Belsize-terrace, Hampstead, Middlesex, (carrying on business at Old Broad-street, London, under the style or description of George Gull & Co.), tallow broker, Sept. 11 at 1, and Oct. 14 at half-past 1, London: Off. Ass. Graham; Sol. Sydney, 44, Finsbury-circus.—Pet. f. Aug. 20.

WILLIAM TYLER, Peaton-place, Walworth, Surrey, (commonly called and known as the Royal Surrey Gardens,) and Cringleford, Norfolk, dealer in foreign animals, Sept. 11 at half-past 1, and Oct. 14 at 2, London: Off. Ass. Graham; Sol. Blake, 4, Serjeants'-inn, Fleet-street.—Pet. f. Aug. 28.

WILLIAM FINCH the younger, Dudley Port, Tipton, Staffordshire, paper dealer, Sept. 11 and Oct. 9 at 10, Birmingham: Off. Ass. Whitmore; Sols. Allcock, Birmingham; Hodgson & Allen, Birmingham.—Pet. d. Aug. 3.

JOHN BRIDGES and CHARLES JOHN CARR, Belper, Derbyshire, nail manufacturers, Sept. 8 and Oct. 6 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Freeth & Co., Nottingham; Haywood, Derby.—Pet. d. July 13 against John Bridges; Pet. d. Aug. 26 against Charles John Carr.

JAMES GARDINER, Holme, Almondbury, Yorkshire, woollen cloth manufacturer, Sept. 15 and Oct. 16 at 11, Leeds: Off. Ass. Hope; Sols. Brook & Co., Huddersfield; Clay, Huddersfield; Bond & Barwick, Leeds.—Pet. d. Aug. 31.

ARTHUR JENNINGS KITCHEN, Elland, Yorkshire, woollen manufacturer, (lately carrying on business with Joseph Brook, deceased, under the firm of Joseph Brook & Co.), Sept. 15 and Oct. 16 at 11, Leeds: Off. Ass. Hope; Sols. Holroyde & Co., Halifax; Blakeley & Lander, Dewsbury; Bond & Barwick, Leeds.—Pet. d. Aug. 24.

JAMES SIDDONS, Sheffield, Yorkshire, grocer, Sept. 12 and Oct. 10 at 10, Sheffield: Off. Ass. Brewin; Sols. Smith & Burdekin, Sheffield.—Pet. d. Aug. 24; f. Aug. 25.

JAMES MEYRICK, Crewe, Cheshire, tailor, Sept. 15 and Oct. 6 at 11, Liverpool: Off. Ass. Morgan; Sol. Woodburn, Liverpool.—Pet. f. Aug. 26.

Meetings.

Jos. Stoner, Ormskirk and Southport, Lancashire, grocer, Sept. 18 at 11, Liverpool, aud. ac.; Sept. 24 at 11, div.—*E. Patterson*, Birmingham, draper, Sept. 17 at half-past 11, Birmingham, aud. ac.—*Jos. Lodge*, Wolverhampton, brewer, Sept. 17 at half-past 11, Birmingham, aud. ac.—*John Wilkinson*, Sittingbourne, Kent, railway contractor, Sept. 25 at 11, London, div.—*Walter Booth*, Church-road, Kingsland, Middlesex, and Seymour-street, Deptford, Kent, paper maché manufacturer, Sept. 23 at 2, London, div.—*Samuel Tansley Cundy*, Lower Belgrave-place, Pimlico, stonemason, Sept. 23 at 1, London, div.—*William Tent*, Royal Exchange, City, hosier, Sept. 22 at half-past 1, London, div.—*William Eames Heathfield* and *William Aburrow*, Princes-square, Finsbury, manufacturing chemists, Sept. 26 at 12, London, div.—*James Hunter*, Burscough, Lancashire, shipwright, Sept. 24 at 11, Liverpool, div.—*Thomas Hewitt*, Ormskirk, Lancashire, grocer, Sept. 24 at 11, Liverpool, div.

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THE JURIST.

LONDON, SEPTEMBER 5, 1857.

Nothing is better established, by a long series of authorities, than these propositions—that a wife is entitled, both as against her husband and his assignees in bankruptcy or insolvency, or his particular assignee for value, to claim her equity to a settlement out of the *capital* of her property, which can only be reached by an application to a Court of equity. It is also well established that she is likewise entitled to a settlement or maintenance out of her life interest in equitable property, as against her husband, in case he should desert her, or against his general assignees, in case he should become bankrupt or insolvent.

It has, however, been held, that although a married woman is entitled to a settlement out of *capital*, as against the particular assignee for value of her husband, she is not entitled to claim such right, where she has only a *life interest*, if her husband executed the assignment previous either to his bankruptcy or insolvency, or the abandonment of his wife. For instance: suppose a married woman to become entitled to 1000*l.*, which the husband assigned to a person for valuable consideration, but which, in consequence of the trustees not being willing to pay it to the assignee, or in consequence of the fund being in the Court of Chancery, was not attainable without an application to the Court, the wife would be entitled to have a part, or in some cases even the whole, of the fund settled upon her, to the disappointment of the assignee. Suppose, however, that the wife was entitled to a *life interest only* in the fund of 1000*l.*, although the wife would be entitled to a settlement out of it as against her husband, or his assignees in bankruptcy or insolvency, she could not claim it as against a person to whom an assignment for value had been made, although her husband afterwards became bankrupt or insolvent, or left her in a state of destitution.

Like most of the anomalies of our law, this doctrine appears to have been started by a dictum, and to have been gradually established by decisions leaning upon so dangerous a support, rather than by a rational examination of the principles of equity, or by analogy to cases of undoubted authority. The first case in which this distinction appears to have been suggested is that of *Wright* v. *Morley*, (11 Ves. 12): there the husband assigned the dividends in stock vested in trustees, to which his wife was entitled *for life*, in order to secure an annuity which he had granted. It was contended that an assignment of a life interest to an assignee for value was valid as against her claim for a settlement. It was, however, unnecessary to decide the point, as Sir W. Grant, M. R., was of opinion, assuming the wife to be entitled to a settlement as against the assignee for value, (which point, however, he did not decide), that the amount of the dividends which would remain after providing for the payment of the annuity would be an adequate settlement or maintenance for the wife. His Honor, after referring to the opinion of Lord Alvanley, that there was no difference, with reference to the equity of a married woman to a settlement, between an assignment for valuable consideration and by operation of law, added, however, with respect to the *life interest* of a married woman, "There is no doubt the husband has a right to deal with it so long as he maintains her; and there is no doubt of his right to make a specific disposition if he maintained her. That leads to the question, whether, in the case of abandonment, by the husband ceasing to maintain his wife, there is an equity for her to have her own life interest laid hold of by this Court, supposing it not reduced into possession by the husband, being still in the hands of trustees. One question is, whether that is settled merely as between the husband and wife, and putting third persons out of consideration? If so, the second is, whether this equity prevails, where, previously to the abandonment, the husband has made an assignment of the wife's interest, or any part of it? That question, *so far from being decided, has not even been made the gist of a case.* It, therefore, deserves *a great deal of consideration.* Another point is as to the assignment having taken place when the husband was performing his duty by maintaining his wife, *whether the abandonment afterwards shall devest the right* which the assignee of the fund had vested in him."

The first reported decision upon the subject appears to have been the case of *Elliott* v. *Cordell*, (5 Mad. 149). There a married woman being entitled to a life interest in the dividends of stock vested in trustees, she and her husband assigned her life interest for value to the defendant. The husband afterwards became bankrupt. It was argued that the wife was entitled to a settlement, inasmuch as there was no difference in principle between a gross sum and an interest for life; but Sir J. Leach, V. C., held that the wife was not entitled to a settlement. "I find no authority," he observed, "for the equity claimed by the wife, as against the particular assignee, in the case of an interest given to the wife for her life; and it does not follow as a corollary or consequence from any established doctrine of the Court." And after admitting that in the event of the husband deserting his wife, or becoming bankrupt or insolvent, the Court would give the wife a maintenance out of her life interest, he endeavours to account for the distinction which he considered to exist between the rights of a particular assignee for value and the general assignee of the husband with respect to the life interest of his wife. "When the title of the *general* assignee," he added, "vests, the incapacity of the husband to maintain the wife has already raised this equity for the wife; but the same principle does not *necessarily* apply to a *particular* assignee for a valuable consideration, who purchased this interest when the husband was maintaining the wife, and before circumstances had raised any present equity in this property for the wife, whatever may be *the force of general reasoning upon it.* If, however, I considered it to be useful that the same rule should be applied to the particular assignee as to the general assignee, (which may be doubted), by declaring this rule, in the absence of all direct authority, and of all authority leading necessarily to the same conclusion, I fear that I should not be administering the actual law of this Court, but I should be making a new law; and I cannot venture to assume such a jurisdiction."

The next reported case on the subject appears to be that of *Stanton* v. *Hall*, (2, Russ. & M. 175). There the husband was tenant for life of lands vested in trustees, with a provision that in the event of his bankruptcy or insolvency his wife should have an annuity of 100*l.* during his life. The husband sold and conveyed the whole estate as if he had been the owner in fee-simple, and afterwards took the benefit of the Insolvent Debtors Act. It was held by Lord Brougham, C., that the wife was not entitled to any settlement. "If," said his Lordship, "the question were now for the first time raised, whether Courts of equity had not gone further than principle warranted in allowing the claim against particular assignees in cases where a *capital sum* was at stake, *some doubt* might, perhaps, be entertained; but in a case like *Elliott* v. *Cordell*, where the question related to a *mere life interest*, and where, prior to the assignment, there was no failure on the part of the husband to maintain his wife, the Vice-Chancellor (Sir J. Leach) would have gone a great step further had he listened to the argument in favour of the wife's equity." This case clearly recognised the decision of *Elliott* v. *Cordell;* but the doubt thrown out by the Lord Chancellor, as to whether the wife's equity to a settlement out of a capital sum might not be defeated by an assignment for value, (a doubt utterly unwarranted by the authorities), shewed that his Lordship's mind was then scarcely familiar with the principles of equity upon this subject, and that a strong bias towards the doctrines of common law would naturally incline him rather to lean upon a decision such as *Elliott* v. *Cordell* than to carry those principles out to their legitimate extent.

After a lapse of upwards of twenty years the question was again mooted in the recent case of *Tidd* v. *Lister*, (10 Hare, 140); and there Sir G. J. Turner, V.C., followed the cases of *Elliott* v. *Cordell* and *Stanton* v. *Hall;* and his decision was, on appeal, affirmed by Lord Cranworth, C., (3 De G., Mac., & G. 857). After these decisions the question may perhaps be considered at rest, though it is one well deserving the attentive consideration of the highest appellate tribunal. Be this as it may, it will not be altogether useless to examine the reasoning upon which the distinction between the assignment of a life interest and of a capital fund of the wife, with reference to her claim to a settlement, are supposed to rest, and which Sir G. J. Turner, V. C., said "cannot be disregarded."

That learned judge first observes, (see 10 Hare, 152), that "in cases where the wife takes an absolute interest, the provision is for herself and her children. She cannot claim it for herself alone. In cases where the wife takes a life interest, the provision is for her separate benefit, independently of the children—a distinction pointed out by Sir W. Grant in *Wright* v. *Morley.*" The Lord Chancellor also makes similar remarks as to the children in such a case not being included in the provision made for the wife. (See 3 De G., Mac., & G. 869). Now, it is true, that where the wife has an absolute interest, if she requires a settlement to be made, her children are always provided for; but that is not the case where the wife seeks a maintenance out of her life income, for it is too well established to render it necessary to quote authorities, that where a married woman has been either deserted by her husband, or he has become bankrupt or insolvent, maintenance or a settlement will be allowed to or made upon her out of a *life interest*, without considering her children. A provision for the children, therefore, does not appear to be essential where the wife seeks for maintenance or a settlement out of her income. His Honor then takes this distinction—that "in cases where the wife takes an *absolute* interest, her right to a provision for herself and her children is *independent* of the acts and conduct of her husband; in cases where she takes a life interest only, her right to a provision for herself arises from the non-fulfilment by him of his obligations, and is *wholly dependent* upon his acts and conduct."

Now, this is not strictly accurate, for in many cases the equity of a wife to a settlement may depend upon the acts of her husband; for instance, if he has made a sufficient settlement upon her, she cannot claim a settlement even out of capital; and it is clear that the amount to be settled upon her out of capital may very materially depend upon the acts and conduct of her husband. It seems, moreover, to us to be very doubtful, even in the case of a capital fund, where the husband is maintaining the wife, and is not either bankrupt or insolvent, whether the Court would, upon the husband declining to execute a settlement, take away the income of it from him, although it would secure the fund so as to give the wife the chance of taking it by survivorship. His Honor next observes, that "in the cases, too, where the wife takes an absolute interest, the purchaser takes subject to a well-known and settled equity; but where the wife takes *for life* only, the equity by which it is said the purchaser must be bound may not exist at the time of the purchase, and, depending as it does on the conduct of the husband, may never come into existence; and in this respect," his Honor adds, "there is a great distinction between the particular assignee for value and the general assignee; for in the case of the general assignee the very bankruptcy or insolvency on which his title is founded creates the right against him."

Assuming that these distinctions do exist to the extent laid down by the learned judge, the real question after all is, are they *material* to the question at issue? Assuming that it is uncertain whether the conduct of the husband may ever give rise to the equity of the wife—that is to say, assuming that at the time when he assigns the income of his wife's life interest it is uncertain whether he will ever desert her, or become bankrupt or insolvent, (events which it is admitted, as against the husband or his general assignees, would give good grounds for her claim to maintenance or a settlement), is not the real question upon which everything turns this—whether the husband can convey a better title to an assignee for value than he has himself? We think, with Sir W. Grant, M. R., in *Wright* v. *Morley*, (11 Ves. 17), that there is "great weight" in what Lord Alvanley said upon this subject in *Macaulay* v. *Philips*, (4 Ves. 19), viz. that "it would be whimsical that the assignment by the husband for valuable consideration should *put that assignee in equity in a better situation than the husband himself is at law.* The guard of this Court upon the wife's interest would be very singular if the husband, not being entitled at law, might assign it for valuable consideration to another person, who would be entitled in equity."

This reasoning of Lord Alvanley, although he was then speaking with reference to the capital of the wife, is precisely applicable to the question now under consideration; and if it were carried into effect, the assignee for value would take what the husband is entitled to in the life interest of the wife, and no more; and consequently the wife's right to a maintenance or settlement thereout would arise when the husband either deserted or shewed his inability to maintain her, by becoming either bankrupt or insolvent.

His Honor lastly considers the inconveniences which would ensue if the Court gave the wife a maintenance out of her life interest as against an assignee for value. "Purchasers," he says, "would become involved in inquiries into the relations between husband and wife, the extent of their property, and their other means of maintenance; and the life interests of married women would become incapable of being dealt with, whatever might be the exigencies of the case." This may be all true; but does not the same objections, either wholly or to a great extent, apply to the alienation of the capital of the wife? And yet the Court has never allowed them to deter it from making a settlement upon the wife out of her capital, though assigned for value.

In truth, such decisions as *Elliott* v. *Cordell*, *Stanton* v. *Hall*, and *Tidd* v. *Lister* cannot be supported upon principle; an attempt to do so will but result in pointing out here and there a distinction without a difference, barely concealed by semi-transparent fallacies. When Lord Brougham in *Stanton* v. *Hall* was inclined to doubt whether a married woman was entitled to a settlement out of her capital as against an assignee for value, although he had no authority for the doubt, he had at any rate, in throwing it out, the merit of consistency.

Considering the time which has elapsed since *Elliott* v. *Cordell* and *Stanton* v. *Hall* were decided, it would perhaps be, as the Lord Chancellor observes in *Tidd* v. *Lister*, (3 De G., Mac., & G. 871), "very inexpedient now to attempt to disturb them; but we cannot be surprised, that with reference to the grounds for the distinction in principle between the mode of dealing with the purchaser of a wife's life interest and the purchaser of her absolute interest, his Lordship observes, "That they are altogether satisfactory to my mind I am not prepared to say."

◆

It is a well-established rule, that no appeal lies from a magistrate's decision unless it is expressly given by statute. The consequence has been, that in very many cases no right of appeal has existed, although the adjudication may have been as important in its nature and its results as in other instances from which the party dissatisfied had the power of appealing to the court of quarter sessions. This anomaly was not remedied by Jervis's Act, (11 & 12 Vict. c. 43), although it professed to consolidate and render uniform the procedure which relates to summary convictions and orders; but by the act which was passed for Ireland two years later, and which had the same general object in view, an appeal to the next quarter sessions was given in all cases of summary jurisdiction in Ireland, where the fine imposed exceeded 20*s*., or the term of imprisonment exceeded one month. (14 & 15 Vict. c. 93, s. 24). Uniformity, however, upon this subject, so far as points of law are concerned, has now been introduced into England and Ireland* by a statute which has just received the royal assent, (20 & 21 Vict. c. 43), and which is likely to have an extensive as well as an important operation. Its general effect is to allow an appeal against any conviction or order of magistrates to one of the superior courts of common law, upon the ground that it is erroneous in point of law. The magistrates, it is true, may refuse to allow the appeal, (except where the application is made under the Attorney-General's direction), if they are of opinion that the application is merely frivolous; but even then the appellant may apply to the Court of Queen's Bench for a rule calling upon them to shew cause why the appeal should not lie. The form of the appeal is to be by special case, which is to be stated and signed by the justices, provided the application for that purpose is made to them in writing, and security to prosecute &c. given within three days of their decision. The appellant on receiving the case is to give a copy thereof, and notice of appeal, to the respondent, and is to transmit the case itself (without certiorari) to the superior court within three days after he, the appellant, has received it. The superior court, or a judge at chambers, is to decide the case, having power over the costs, and their decision is to be enforced by the magistrates. The act is already in force, but the Courts are empowered to make rules for regulating procedure under it.

It will be observed that the statute does not provide for appeals on matters of fact: these, therefore, remain almost as before, and will lie only where expressly allowed by statute, and then to quarter sessions. The only alteration made as to such appeals is, that they will be taken to have been abandoned when an appeal on a point of law is made under this statute.

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* Scotland is excepted. (Sect. 15).

THE THIRD REPORT OF THE STATUTE-LAW COMMISSIONERS.

(*Concluded from p.* 352).

We have also come to the conclusion that such other offences, though not indictable offences, as are now found in the Consolidation Acts of 1827, and other existing statutes in connexion with indictable offences, and also those offences which have been made originally punishable on summary conviction, with a provision that a second or third offence shall be felony or misdemeanour, should be introduced into these bills, so as to avoid as much as possible the inconvenience of breaking up a statute, and leaving parts of it in force, which would increase, instead of diminishing, the complexity of the statute law.

We may observe that the introduction of such alterations and additions would be in exact accordance with the recommendations made in 1854 by the select committee of the House of Lords on the bills of the Criminal-law Commission, which we add in the Appendix to this our Report.

We have, therefore, caused a revision of the criminal law bills to be commenced in accordance with the views above indicated. The revised bills will be accompanied by a statement shewing the alterations made, and they will shortly be ready to be submitted to Parliament.

In the course of this revision it has appeared to us that the law on certain special subjects, which had been included in the general bills, would be more conveniently placed apart; we have therefore extracted and arranged in separate bills the game laws, the laws relating to coin, to libel, and to perjury. Other special branches of the criminal law, such as offences relating to the army and navy, to the post-office, to the customs, and other public departments, had been omitted in the first instance, and still remain to be made the subject of separate consolidations.

We have also given instructions for the preparation of a bill to consolidate the general statute law relating to the procedure before magistrates in cases of summary conviction.

The eight criminal law bills originally prepared related to England only; but as we conceived it to be very desirable, if possible, that the law of England and Ireland should be included in the same bills, they were altered, under the direction of the Attorney-General for Ireland, so as to include the statute law of Ireland also. The view, however, which we thus obtained of the extent of the difference between the laws of the two countries led us to the conclusion, that in a consolidation in which no material alterations of the law were to be introduced, it would not be practicable to frame a bill so as to include the criminal law of the two countries in a satisfactory manner; and though the modification of our plan above spoken of has led to some change of our views in some instances, we still think that generally it would be best that the bills should not, in the first instance, be made to apply to Ireland, and that the law of Ireland should be subsequently consolidated in separate bills. We would, however, express our hope that the consideration of the bills, when framed on this principle, may induce the Legislature to assimilate the laws of the two countries in all respects, except in the few cases in which substantial reasons can be assigned for the existing difference between them.

(2.) *Mercantile Law.*—Under this head we have given instructions for the preparation of bills on the following subjects:—

Bills of exchange and promissory notes.
Factors, agents, and mercantile contracts.
Joint-stock companies and partnership.
Merchant ships and shipping.
Bankers and banking.
Copyright.
Patents.
Carriers.
Pawnbrokers.
Innkeepers and victuallers.
Harbours, rivers, canals.

Most of these have been delivered to us by the draftsmen, and are now under consideration; the remainder are in a forward state. The bill on bills of exchange and promissory notes is that mentioned in our First Report, as we have already explained.

(3.) *Law of Property.*—Under this head we have caused bills to be prepared embracing the following subjects:—

Landlord and tenant.
Alienation—Dispositions by tenants in tail and married women—Improvement of lands. (Five bills).
Fraudulent assurances.
Mortgage and registration of judgments. (Two bills).
Devise and testament. (Two bills).
Escheat, tenure, and trusts estates. (Five bills).
Mortmain.
Joint tenancy and partition.
Attornment—Commons (three bills)—Copyhold—Curtesy—Descent—Dow—Gavelkind—Maintenance—Waste.
Ecclesiastical and collegiate leases.

The whole of these have been delivered to us by the draftsmen. The first and last of them are the bills referred to in our First Report, as already explained.

In addition to these, we have also caused to be prepared bills to consolidate the law relating to aliens and denizens, the statutes of limitation and prescription, the statutes relating to bridges, the statutes rendering written documents necessary in certain cases, the marriage acts, the statutes regulating weights and measures, and those relating to libel; and a gentleman is engaged, under the direction of the Attorney-General, in consolidating the law relating to insurance.

Mr. Tapping has also obligingly presented us with a bill which he has prepared to consolidate and amend the Factory Acts; and Mr. Edward Cooke has also presented to us a bill to consolidate and amend the statutes relating to insolvency.

In laying down rules for the consolidation of the statute law, we have felt it impossible to adopt one universal principle. It will be observed that our task is to consolidate the existing law, not to frame a code of general law founded on that which now exists; nor, in fact, to make a digest of the statute law, with additions or alterations; we therefore find it necessary to treat the different classes of statutes according to particular circumstances. Thus many statutes of ancient date, which have been through a course of ages expounded by the Courts, must now be regarded rather as the basis than as the whole structure of the existing law, and can hardly be made the subject of simple consolidation; though, if a digest of the existing law were to be made, their effect, coupled with the judicial expositions which they have from time to time received, might of course be embodied. In the class of real property statutes, Magna Charta, the Statute Quia Emptores, and the Statute of Uses may be taken as instances of the kind referred to; and we propose that these should, without enactment, be merely classified and reprinted, or, if it should be considered expedient to enact a classified arrangement of the law, they might be declared to be law, in the manner which we have adopted with regard to the Statute of Treasons in the Criminal Law Bill relating to that subject.

There is another class of statutes which it would not be possible to consolidate in the mere terms of the existing enactments; we allude to those which consist of a series of fragmentary alterations of or additions to the common law; such, for instance, as those which have been passed to regulate the relations of landlord and tenant. We have caused a bill on that subject to be prepared; but the effect of so incoherent a collection of exceptions without the rules, and explanations or additions without the thing explained or added to, part in antiquated and part in modern language, is certainly not satisfactory; and it appears to us at least doubtful whether, in cases of this kind, anything like a complete and intelligible enactment can be produced unless we rewrite the law, availing ourselves occasionally of our power to embody the common law.

With regard to another class, consisting of recent statutes which stand alone, or which have been only slightly modified by subsequent amending acts, a consideration of the bills which have been prepared has led us to the conclusion that it is not necessary with these to go through the form of repeal and re-enactment, unless, indeed, it should ultimately be determined to rewrite this class of statutes, for the purpose of adopting any amendments, or supplying any deficiencies discovered in them in the course of their practical application. As examples of this class we may mention the Statute of Wills of 1837, and the act of 1833 to abolish fines and recoveries, and to substitute simpler modes of assurance. One section only (the 9th) of the former act has been modified by a subsequent short act, the 15 & 16 Vict. c. 24; and the only statutory additions to the long and elaborate Fines and Recoveries Act with which we are acquainted are, an enactment (probably superfluous) that it shall extend to Berwick, (6 & 7 Will. 4, c. 103, s. 6); a provision that judges of county courts may take acknowledgments of married women under the 79th section, (19 & 20 Vict. c. 108, s. 73); the substitution of the Master of the Rolls and the Vice-Chancellors for Masters in Chancery, for the purposes of the same section, by the effect of the 15 & 16 Vict. c. 80, s. 36; and the short act, 17 & 18 Vict. c. 75, making an alteration in the 81st section.

It appears to us that the inconveniences which must always accompany any change, even in the language and form of the law, would exceed any advantages which might result from the incorporation of such slight alterations in cases of this kind; and we therefore consider that nothing should be done with statutes of the class now under consideration, beyond reprinting them in their most suitable places, in any classified edition of the statutes, or at most re-enacting them in a declaratory way, if such a course is thought advisable.

Omitting, for the reasons above stated, the three classes of statutes to which we have referred, there still remains a large body of statutes to which the process of consolidation, as that term is ordinarily understood, may be applied with advantage, and without more difficulty than must accompany any work which requires skill, accuracy, and experience—such as many of the groups of statutes relating to mercantile law, and generally those branches of the law which are wholly or chiefly based on statutory enactments.

It appears, then, that when the whole existing general statute law has been ascertained and arranged, by means of the classification and register already mentioned, every enactment will fall under one of four classes, namely—

1. Historical statutes.
2. Enactments which require to be rewritten.
3. Statutes standing alone, and not requiring consolidation.
4. Statutes requiring consolidation.

Supposing such an arrangement, with re-enactments, rewritings, and consolidation (where required), to have been effected, a complete body of the existing statute law, forming the permanent rule of civil conduct, would have been produced, so far as relates to the future; but, in addition to these, it must be borne in mind that there will be a large class of statutes, which, though not relating to future transactions, must long continue to be referred to, and, in a qualified sense, to be in force with respect to questions of title, and for many incidental purposes. The Statute of Frauds, for instance, notwithstanding the Wills Act of 1837, must still be the rule for wills made before 1838; and the present Wills Act, as modified by Lord St. Leonards' Act of 1852, must in like manner remain the rule for wills made between 1838 and the passing of any new law on the subject; and it would therefore be necessary, under any circumstances, if an edition of the statutes adapted to the wants of the public is to be produced, to add, in a supplement or otherwise, the laws of this description.

The foregoing observations have been framed with more particular reference to the class of statutes which affect real property, which afford, perhaps, the most salient examples of the various difficulties which surround the work of consolidation. There are many branches of the law, especially mercantile law, in which few or none of them occur.

We are well aware of the great difficulties which surround the task confided to us—difficulties which no one can appreciate who has not had personal experience of them; but we trust that we may at least claim the credit of having actually commenced, and even made an important progress in, a work which others have only recommended.

Cranworth, C.
Stanley.
Lyndhurst.
Brougham.
Wrottesley.
Wensleydale.
J. Moncreiff.
S. H. Walpole.
M. T. Baines.
William Page Wood.
Richard Bethell.
William Keogh.
J. D. Fitzgerald.
James Craufurd.
E. F. Maitland.
Fitzroy Kelly.
Chas. S. Greaves.
Walter Coulson.
H. Bellenden Ker.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Borsley, Argyll-square, King's-cross, Middlesex, builder, Sept. 28 at half-past 1, London.—*George Henry Martin*, Cowcross-street, Middlesex, and Cambridge-terrace, Dalston, tallow chandler, Oct. 12 at 11, London.—*William Thompson*, Over Darwen, Lancashire, power-loom cloth manufacturer, Sept. 24 at 12, Manchester.—*Henry Tristram*, Liverpool, broker, Oct. 5 at 11, Liverpool.—*Henry Fisher*, Nottingham, tailor, Sept. 29 at half-past 10, Nottingham.—*Robert Carter Ouston*, Kingston-upon-Hull, wine merchant, Nov. 4 at 12, Kingston-upon-Hull.—*George Atkinson*, Lincoln, commission agent, Nov. 4 at 12, Kingston-upon-Hull.

To be granted, unless an Appeal be duly entered.

Thomas Horner, Hart-street, Bloomsbury, house decorator.—*Charles Worters Broughton*, Southampton-street, Covent-garden, tailor.—*Charles Budden*, Basingstoke, Southampton, tailor.—*Charles Wing*, North-end, Fulham, apothecary.—*John Marshall*, Victoria-wharf, Reading, coal merchant.—*Samuel Couldrey*, Stainsby-road, Limehouse, lime merchant.—*George Johnson*, Billingham, Durham, corn merchant.—*Robert Swan Young*, West Hartlepool, Durham, tea dealer.—*Robert Taylor*, Sunderland, Durham, draper.—*William Rawle*, Liverpool, broker.

Petition Annulled.

George Pullin, Whitecross-street, baker.

Partnership Dissolved.

William Henry Duignan and *John Hemmant*, Walsall, Staffordshire, attornies and solicitors.

Scotch Sequestrations.

Charles Seaton, Orchardfield, Leith.—*James Snodgrass*, Glasgow, commission agent.

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STEPHEN FROUD, British Oak, Great Western-road, Paddington, builder, Sept. 18 and Oct. 20 at 1, London: Off. Ass. Edwards; Sol. Vaughan, 33, Upper George-street, Edgeware-road.—Pet. f. Sept. 2.

HENRY MACKAY, Exeter, confectioner, Sept. 10 and Oct. 8 at 11, Exeter: Off. Ass. Hirtzel; Sol. Stogdon, Exeter.—Pet. f. Aug. 31.

JOSEPH GARDNER, Liverpool, ironmonger, Sept. 17 and Oct. 8 at 11, Liverpool: Off. Ass. Turner; Sol. Rowe, Liverpool.—Pet. f. Aug. 4.

Meetings.

George Goodwin, Manchester, woollen merchant, Oct. 8 at 12, Manchester, last ex.; Oct. 9 at 12, aud. ac.; Oct. 15 at 12, div.—*Charles Fox*, Scarborough, Yorkshire, manufacturer of cod-liver oil, Sept. 16 at 12, Kingston-upon-Hull, last ex.—*John Elphinstone Futqua HoChee*, Nortons Lingfield, Surrey, maker and vendor of paint, Sept. 14 at half-past 1, London, aud. ac.—*James Savage* the elder, *Charles John Savage*, and *James Savage* the younger, Noble-street, City, shirt manufacturers, Sept. 14 at 1, London, aud. ac.—*Thomas Bruce Cooper*, York-place, Old Kent-road, builder, Sept. 14 at 1, London, aud. ac.—*James Bugbee*, Vincent-square, Westminster, contractor, Sept. 14 at half-past 1, London, aud. ac.—*Spegel Morice*, Coleman-street, City, importer of foreign and fancy goods, Sept. 14 at half-past 1, London, aud. ac.—*Thomas Hawkes*, Dudley, Worcestershire, glass manufacturer; Liverpool, merchant; Garston, Lancashire, salt manufacturer; and Paddington, Middlesex, Sept. 23 at 12, London, aud. ac.—*Robert Hugh Lankester*, Bread-street, Cheapside, enamelled bag manufacturer, Sept. 18 at half-past 1, London, aud. ac.—*John Linnit*, Berners-street, Oxford-street, manufacturing jeweller, Sept. 18 at 2, London, aud. ac.—*Wm. Booth*, Upper Whitecross-street, St. Luke's, machine sawyer, Sept. 18 at half-past 2, London, aud. ac.—*Henry Remington*, Railway-place, Fenchurch-street, gas fitter, Sept. 22 at 11, London, aud. ac.—*George Cockburn Hyde*, South-parade, Chelsea, surgeon, Sept. 22 at 1, London, aud. ac.—*Daniel Ross*, Romford, Essex, grocer, Sept. 22 at 11, London, aud. ac.—*Thomas Rodger*, Attercliffe-cum-Darnall, Yorkshire, grocer, Sept. 19 at 10, Sheffield, aud. ac.—*T. Sturton* and *E. Key*, Holbeach, Lincolnshire, scriveners, Oct. 27 at half-past 10, Nottingham, aud. ac. and div.—*James Haywood*, Derby, ironfounder, Oct. 6 at half-past 10, Nottingham, div.—*J. Seddon*, Liverpool, marble mason, Sept. 25 at 11, Liverpool, div.—*Mark Marks* and *Samuel Barnett*, Liverpool, tailors, Sept. 25 at 11, Liverpool, div. sep. est. of *Mark Marks;* Sept. 28 at 11, div. joint est.—*John Holmes*, Bramham, Yorkshire, builder, Sept. 25 at 11, Leeds, div.—*Joseph B. Elgey*, Bradford, Yorkshire, commission agent, Sept. 25 at 11, Leeds, div.—*Wm. Hebdin*, Leeds, *Arthur Oates Hebdin*, Parliament-street, Westminster, Middlesex, and *John Browne* the elder, Leeds, merchants, Sept. 25 at 11, Leeds, div. joint est., and div. sep. est. of *Arthur Oates Hebdin*.—*George Gittins*, Hart-street, Grosvenor-square, ironmonger, Sept. 14 at 1, London, aud. ac.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Evans, Aberystwith, Cardiganshire, shipbuilder, Oct. 6 at 11, Bristol.—*E. Talbott* and *Samuel Grice*, Newam, Lydney, Gloucestershire, ironfounders, Sept. 29 at 11, Bristol.—*N. T. Lucas*, Macclesfield, victualler, Sept. 28 at 12, Manchester.—*Richard Bowcock*, Hulme, Manchester, floor cloth manufacturer, Sept. 28 at 12, Manchester.—*Sagar H. Splatt*, Liverpool, sailmaker, Sept. 25 at 11, Liverpool.

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Tuesday, *Sept.* 8.

Bankrupts.

WILLIAM HARVEY BROOK, Peerless-place, City-road, cheesemonger, Sept. 15 at 2, and Oct. 20 at 1, London: Off. Ass. Graham; Sol. Cattlin, 3, Ely-place, Holborn.—Pet. f. Sept. 4.

WILLIAM HUTCHISON, Frant, near Tunbridge Wells, Kent, stone merchant, Sept. 15 at half-past 2, and Oct. 20 at half-past 1, London: Off. Ass. Stansfeld; Sols. Clarke & Carter, 49, Moorgate-street.—Pet. f. Aug. 31.

GEORGE BEAR, Sudbury, Suffolk, butcher, Sept. 16 and Oct. 20 at 2, London: Off. Ass. Stansfeld; Sol. Goodday, 42, Fish-street-hill.—Pet. f. Sept. 7.

THOMAS HART, Charlotte-street, Blackfriars, Surrey, hat manufacturer, Sept. 16 at 11, and Oct. 24 at half-past 11, London: Off. Ass. Whitmore; Sol. Crafter, 10, Doughty-street.—Pet. f. Sept. 3.

THEOPHILUS KIRKHAM, Leadenhall-street, City, East India merchant, Sept. 16 at half-past 1, and Oct. 24 at half-past 12, London: Off. Ass. Cannan; Sols. Kaye & Son, 4, Symond's-inn, Chancery-lane.—Pet. f. Sept. 4.

SAMUEL PEACOCK TIMBERS, Great Yarmouth, grocer, Sept. 16 and Oct. 24 at 12, London: Off. Ass. Cannan; Sols. Miller & Co., Norwich; Sole & Co., 68, Aldermanbury.—Pet. f. Aug. 24.

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THE JURIST.

LONDON, SEPTEMBER 12, 1857.

THE result of many hot conflicts lies before us in the shape of "An Act to amend the Law relating to Divorce and Matrimonial Causes in England," (20 & 21 Vict. c. 85). Who, ignorant of legislative history during the past session, regarding the placid type, and reading the cold formula, "whereas it is expedient to amend the law," could find trace of stout contests and bitter words? The battle-field has been ploughed and sown anew, and here we have only the harvest—richer, perhaps, for the blood that was shed upon its soil. The produce in this instance, unlike that of many greater battles, is full of promise, and will confer substantial benefit upon the public. It is true that the main object proposed by the measure was simply a transfer of the jurisdiction in matters matrimonial from the House of Lords and Ecclesiastical Courts to a special tribunal. But this in itself involves important consequences, for it tends to distribute justice equally among all classes, and that with reference to a subject of peculiar interest to the community at large. The average expense of obtaining a divorce under the former system is stated by Mr. Shelford to have been 700*l.*; but under the new procedure we should think it can scarcely exceed 100*l.*, unless the case is carried on appeal to the House of Lords. It is also to be observed that the passing of this statute has the effect of making that *law* which hitherto has been in the nature of a privilege, dependent upon a somewhat capricious exercise of jurisdiction by the House of Lords. Judicial is substituted for legislative divorce, and one statute henceforth regulates all divorces, instead of a separate statute being required for each case. It is now expressly declared by law that marriage is dissoluble for adultery, and that the parties divorced may marry again; and the grounds upon which an injured wife may obtain a rescission of the marriage contract are at length clearly defined. Indeed, one of the most praiseworthy features in the act is its tendency in some measure to do justice to women, whose rights have been generally ignored in the measures of the British Legislature. It is also satisfactory to find that the action of crim. con. will be abolished when this statute comes into operation; and although the "scandal" of it cannot be said even then to be wholly at an end, inasmuch as the husband may still sue the adulterer for damages in "the Court for Divorce and Matrimonial Causes," yet the damages will not necessarily go into the husband's pocket, as the Court has power to deal with them for the benefit of the children or the maintenance of the wife. If we were asked to point out the objectionable part of the act, we should place our finger on that clause which empowers clergymen to refuse to solemnise the marriage of a person whose former marriage has been dissolved on the ground of his or her adultery, and also on the clause which allows an appeal from the Divorce Court to the House of Lords. The arguments pro and con relating to the exemption of clergymen from the operation of the act have been so recently before the public that it is unnecessary here to repeat them; and with regard to the appeal to the House of Lords, we may pray in aid those reasons which have recently been laid before our readers against the exercise of *judicial* jurisdiction by that tribunal. We should have thought it advisable not to allow any appeal from a decision of the full Court of Divorce; but if allowed, it should, in our opinion, be to the Judicial Committee of the Privy Council.

With these preparatory remarks we proceed to analyse the measure itself, and will for that purpose divide it into three parts, treating first of the constitution of the new court; secondly, of its jurisdiction, and the consequences of its exercise; and, thirdly, of the procedure in such court. We should, however, mention, by way of preliminary observation, that the act cannot come into force sooner than the 1st January, 1858, and that the period of its operation, whether on that or a subsequent day, is to be fixed by an Order in Council made one month previously to the day appointed. (Sect. 1).

The Court is to be styled "The Court for Divorce and Matrimonial Causes." The judge of the Court of Probate is to be the "Judge Ordinary;" its other judges will be the Lord Chancellor and the chief and senior puisne judges of each of the three superior common-law courts. The Judge Ordinary may act alone in all cases, except petitions for dissolving or annulling marriage, and applications for new trials of questions or issues before a jury, which are to be determined by three or more of the judges, and except also bills of exception, special verdicts, and special cases, which are to be determined by the full Court.

During the temporary absence of the Judge Ordinary, the judge of the Admiralty Court, or a common-law or equity judge, may be appointed to act in his stead. The Court is to sit at such place as may be appointed by Order in Council; it will be a court of record, having a seal of its own, and its decrees and orders, or copies thereof, sealed with such seal, will be receivable in evidence. The registrars and other officers of the principal registry of the Court of Probate are to attend its sittings. Advocates or proctors of any ecclesiastical court in England, and all barristers, attornies, and solicitors entitled to practise in the superior courts at Westminster, may practise in it. (Sects. 6, 8, 9, 15, and 39).

Further than this, a judge of assize, at the assizes for the county in which the husband and wife reside or last resided together, may hear and determine applications for restitution of conjugal rights or for judicial separation, and, where the application is by the wife, may make an order for alimony. He may refer the application to a Queen's counsel or serjeant named in the commission; and not only the Divorce Court, but also justices of the peace, have power to act for the protection of a woman's earnings or property, where she has been deserted by her husband. (Sects. 17, 20, and 21).

The Courts of appellate jurisdiction are, the Judge Ordinary from the judge of assize, the full Court from the Judge Ordinary when acting alone, and in the one case of petitions for dissolution of marriage, the House of Lords from the full Court. (Sects. 20, 55, and 56).

The jurisdiction now vested in Ecclesiastical Courts in respect of divorces à mensâ et thoro, suits of nullity of marriage, of jactitation of marriage, for restitution of conjugal rights, and in all matters matrimonial, except as to the granting of marriage licenses, is to be transferred to the new Court. A decree for judicial separation is substituted for the divorce à mensâ et thoro, and may be obtained either by the husband or wife, on the ground of adultery, or cruelty, or desertion without cause for two years and upwards. The wife in such case, from the date of the decree, and while the separation continues, is to be considered as a feme sole with respect to property, contracts, wrongs and injuries, and suing and being sued; but where alimony has been decreed, and not duly paid, the husband will be liable for necessaries supplied to her. Notwithstanding the separation, she will still be capable of exercising any joint power given to herself and her husband.

Divorces à vinculo may also be granted by the new Court to the husband for adultery of the wife, and to the wife for any of the following offences by the husband—incestuous adultery, bigamy with adultery, adultery coupled with such cruelty as without adultery would have entitled her to a divorce à mensâ et thoro*, adultery coupled with desertion for two years or upwards, rape, sodomy, or bestiality. The words "incestuous adultery" mean adultery committed with a woman with whom the husband, if single, could not lawfully contract marriage, by reason of her being within the prohibited degrees of consanguinity or affinity; and the offence of bigamy under the statute will be complete whether committed in the Queen's dominions or elsewhere. The petition for dissolution is to be dismissed if the Court is of opinion that the petitioner has been accessory to or conniving at the adultery, or has condoned it, or is acting in collusion with the respondent. The Court also has a discretion as to dissolving the marriage tie, if it find that the petitioner has during the marriage been guilty of adultery, or of unreasonable delay in presenting or prosecuting the petition, or of cruelty towards the other party to the marriage, or of having, without reasonable excuse, deserted or wilfully separated himself or herself from the other party before the adultery complained of, or of such wilful neglect or misconduct as has conduced to the adultery. Power is given to decree alimony to the wife, and to have the same secured by deed; and in case of her adultery a settlement may be ordered of her property, or part of it, for the benefit of her husband and children. No action will be maintainable for criminal conversation, but damages may be claimed by a husband from the adulterer, either in a separate petition or in a petition for dissolution of marriage, or for judicial separation; they are to be ascertained by the verdict of a jury, and may be applied by the Court for the benefit of the children or the maintenance of the wife. The adulterer, when made co-respondent to any petition presented by a husband, may be ordered to pay the whole or any part of the costs. The Court also has power, on petition for dissolution or nullity of marriage, or for judicial separation, to provide for the custody, maintenance, and education of the children, and may direct proceedings to be taken for placing them under the protection of the Court of Chancery.

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* *i. e.* Such cruelty as causes danger to life or health. Proof must be given of grounds for reasonable apprehension of bodily hurt. (Per Lord Stowell in *Evans* v. *Evans*, 1 Hagg. Cons. 39, 40).

The parties divorced à vinculo may marry again after the time for appeal has elapsed, or after an unsuccessful appeal; but no clergyman of the Established Church is bound to solemnise the marriage of any person who has been divorced for her or his adultery; such clergyman, however, is to permit the use of his church for that purpose to any other clergyman entitled to officiate in the diocese. (Sects. 2, 6, 7, 16, 26, 30, 31—35, 45, and 57—59).

With regard to the procedure of the Court, the most important section is the 22nd, whereby it is enacted, that "in all suits and proceedings, other than proceedings to dissolve any marriage, the Court shall proceed and act and give relief on principles and rules which in the opinion of the said Court shall be, as nearly as may be, conformable to the principles and rules on which the Ecclesiastical Courts have heretofore acted and given relief, but subject to the provisions herein contained, and to the rules and orders under this act."

If, however, damages be sought against the adulterer, the claim in that respect is to be heard and tried on the same principles, in the same manner, and subject to the same or like rules as prevail in the trial of actions for crim. con. (Sect. 33).

The application for relief to the court or a judge of assize must in all cases be by petition, which is to be served on the party to be affected by it, in such manner as the Court may by any general or special order direct, and for that purpose the Court will have all the powers conferred by any statute on the Court of Chancery. The Court may, however, dispense with such service altogether. If damages be sought from the alleged adulterer, the petition is to be served on him and the wife, unless the Court dispense with such service, or direct some other to be substituted. If a decree of nullity or dissolution of marriage, or of judicial separation, in a suit of jactitation of marriage, be sought, an affidavit must be filed verifying the petition, so far as the applicant can do so, and stating that there is not any collusion or connivance between the deponent and the other party to the marriage. (Sects. 33, 41, and 42).

The alleged adulterer is to be made a co-respondent to a petition presented by a husband for dissolution of marriage, unless otherwise ordered by the Court on special grounds; and on like petition by the wife the Court may direct that the person with whom the husband is alleged to have committed adultery shall be made a respondent. (Sect. 28).

On petitions for dissolution of marriage, the parties, or any of them, may insist upon contested matters of fact being tried by a jury, and if damages are sought, they are always to be ascertained by a jury, but in other cases it is in the discretion of the Court whether questions of fact shall or shall not be determined by a jury. Issues may also be directed by the Court to be tried in any court of common law. Upon the trial, under the act, of any question of fact by a jury, or of any issue, a bill of exceptions may be tendered, and a general or special verdict, or a verdict subject to a special case, may be given; and where the trial has not been had before the new Court, they are to be returned into it without any writ of error or other writ, and the matter of law involved therein is to be determined by the full Court. (Sects. 28, 33, 36, 39, and 40).

Witnesses are to be sworn and examined orally in open court, but parties may verify their respective cases, in whole or in part, by affidavit, and be cross-examined and re-examined thereon orally in open court. The attendance of the petitioner may be ordered, and his examination or cross-examination on oath may be permitted at the hearing, but he will not be bound to answer any question tending to shew that he has been guilty of adultery. The rules of evidence observed in the common-law courts are to be followed by the Court in the trial of all questions of fact. Provision is made for enforcing the attendance of witnesses, and for their examination when abroad or unable to attend. The hearing of the case may be adjourned, and further evidence thereon required. (Sects. 43 and 46—50).

The Court, and the House of Lords on appeal, have a general power over the costs of the proceedings, but there is not to be any appeal on the subject of costs only. (Sect. 51).

The time for appealing from the Judge Ordinary to the full Court is three calendar months. A like period is named for the appeal from the full Court to the House of Lords, on decrees for dissolving marriage; but if Parliament be not then sitting, the appeal must be within fourteen days next after its meeting. (Sects. 55 and 56).

The fees payable under the act (except on applications to a judge of assize) are to be collected by stamps. Compensation is awarded to proctors, and the salary of the Judge Ordinary is fixed. (Sects. 19, 60, 64, and 65).

The Secretary of State is empowered to order all proceedings relating to marriages, except marriage licenses, to be transmitted from Ecclesiastical Courts, and provision is made as to decrees made or suits now pending in such courts. (Sects. 3—5, and 66).

15 & 16 VICT. c. 86, s. 42, r. 9.

There seems to have been some conflict of opinion among the different equity judges as to the practice of putting into execution sect. 42 of the 15 & 16 Vict. c. 86, the 9th rule of which is, "That in all suits concerning real or personal estate which is vested in trustees under a will, settlement, or otherwise, such trustees shall represent the persons beneficially interested under the trust, in the same manner and to the same extent as the executors or administrators in suits concerning personal estate represent the persons beneficially interested in such personal estate; and in such cases it shall not be necessary to make the persons beneficially interested under the trust parties to the suit; but the Court may, upon consideration of the matter on the hearing, if it think fit, order such persons, or any of them, to be made parties." One of the first cases that came under this section was a foreclosure claim filed by the first mortgagee against the mortgagor and second mortgagee; and the question arose, whether, inasmuch as the second mortgagee was merely a trustee under a settlement, the persons interested under such settlement ought to be made parties. This case (*Goldsmith* v. *Stonehewer*, 9 Hare, App., xxxviii; S. C., 17 Jur., part 1, p. 199) came before Sir G. J. Turner, V. C., and that learned judge, after having noticed the circumstances of the case, is reported to have said, "If the mortgage had been made to the party, or had become vested in him as executor, it would be sufficient to make him defendant, without any of the persons beneficially interested. . . . There is this difference between the case of an executor and that of a trustee, that the executor has the control over the whole estate of the testator, whilst the power of the trustee is limited to the particular fund which is the subject of the trust, and he has not necessarily control over any other fund." And his Honor concluded by consenting to make the order upon having the adult cestuis que trust made parties. A similar distinction was taken in the two cases of *Hanman* v. *Riley* (9

Hare, App., xl) and *Sale* v. *Kitson*, (3 De G., Mac., & G. 119), where it was held, that all the persons having control over the property (in the latter case the devisees in trust and the executors of the mortgagor) being before the Court, the persons beneficially interested need not be made parties. In *Fowler* v. *Bayldon* (9 Hare, App., lxxix) this principle was held to extend not only to administration suits, but all other suits where the interest of the cestui que trust was represented by, or the power vested in, trustees. (See *Swallow* v. *Binns*, 17 Jur., part 1, p. 295; *Young* v. *Ward*, 10 Hare, App., lviii; and *Stansfield* v. *Hobson*, 16 Beav. 189). In *Shaw* v. *Hardingham*, (Weekly Rep., 1854, p. 657), the Master of the Rolls allowed the executors with a power of sale under the will of mortgagors, and the tenant for life, to represent the persons beneficially interested in remainder, although there was no devise to the executors, and therefore it was difficult to understand how any estate could be vested in them so as to bring it under the words of the act. In *Inder* v. *Morris* (1 Sm. & G. 503) and *Cropper* v. *Mellersh*, (1 Jur., N.S., part 1, p. 299; S. C., 24 L. J., Ch., 430), Sir J. Stuart, V. C., was of opinion that the proper course, notwithstanding this 9th rule of the section, was to make the persons beneficially interested parties to the suit. In *Cropper* v. *Mellersh* the trustees (as appears from the report of the case in the Law Journal) were also executors. The cases of *Sale* v. *Kitson* and *Hanman* v. *Riley* were brought before the notice of the Court, and from the report of the case there does not seem to be any reason why the rule laid down in those cases should not be also applicable to that case.

In a late case before Sir W. P. Wood, V. C., (*Wilkins* v. *Reeves*, 24 Law T. 337), the same question arose in a foreclosure suit, and his Honor, in deciding that the surviving devisee in trust and executor of the mortgagor sufficiently represented the persons in the equity of redemption, is reported to have said, with reference to the case of *Cropper* v. *Mellersh*, "that the Legislature had directed that trustees should represent the estate, and the remarks of the learned judge in that case went to the very root of the enactment in question." The general practice of the Courts is to act in conformity with the principle laid down in the above cases of *Sale* v. *Kitson* and *Hanman* v. *Riley*, viz. that wherever you have some of the persons before the Court who may have control over the property sought to be affected by the suit, that is considered a sufficient representation under this section.

JUDICIAL STATISTICS.

A BLUE BOOK (one of the light-coloured species) of 100 pages contains some statistics relative to criminal justice for the year 1856. The "Home Office Statistics of Criminal Justice" have been compiled, so far as practicable, to comprise the enlarged amount of information which Secretary Sir G. Grey has desired in future to be prepared annually in this department. The book under our notice at present forms part 1, and it is proposed that the statistics of civil and commercial justice shall form part 2. The statistics of "criminal justice" comprise, under three separate heads, but with conformity of arrangement, police, criminal justice, and prisons; and by combining this information in one report much useless and cumbersome repetition will be avoided, and the matter be rendered more readily accessible, both by its more simple and uniform arrangement, and by its collection and annual publication in one comprehensive record. The statistics thus supplied give the following information:—It appears, under the head of "police," that there were 22,221 inquests in the year 1856 in England and Wales—15,282 on males, and 6,939 on females. The per centage of the deaths thus inquired into was as follows:—Murder 0·9, manslaughter 1·2, suicide 5·9, accidental death 43·8, injuries (causes unknown) 1·9, found dead 14·3, and natural deaths 32 per cent. Of this very large number of cases only 476 were of a class necessarily inducing criminal prosecutions; but the open cases of injuries, causes unknown, would seem to require much more extensive inquiries by coroners. 4120 inquests were held on infants, 3875 on children, 11,247 on adults, and 2675 on aged and infirm persons. The total amount of the expense of these inquests last year was 68,439*l.* —an average of 3*l.* 1*s.* 7*d.* for each case. Under the head of "criminal proceedings" it is stated that the commitments for trial of 1856 shew an unprecedented decrease—a result partly attributable to the extended summary jurisdiction of justices. The decrease is equivalent to 6535 persons, or 25·1 per cent., following the large decrease of 11·5 per cent. in 1855. This decrease extended to every county. As regards the nature of the offences, it appears that in cases of offences against the person (including rape and attempts to ravish) the numbers are nearly stationary; stabbing, wounding, and unnatural crimes exhibit the largest decrease. In class 2, "offences against property with violence," the most marked increase appears, amounting to 23·7 per cent. in burglary and shopbreaking. The great decrease of 33·7 per cent. is recorded under the head of "offences against property without violence." Larceny, embezzlement, and sheep-stealing have decreased, while cattle-stealing, horse-stealing, and frauds have increased. There is a decrease of 24 per cent. in "malicious offences against property," and one of 2 per cent. in "forgery and currency offences." An unusual number of coiners have been convicted. There were 19,437 commitments for trial in 1856—9693 to county quarter sessions, 2008 to the Middlesex Sessions, 2889 to borough quarter sessions, 3787 to circuit assize courts, and 1060 to the Central Criminal Court. Of the persons thus committed to gaol for trial, 4672 were acquitted, 31 found insane, and 14,734 convicted; of whom 69 were condemned to death, 273 to transportation, 2158 to penal servitude, 12,107 to imprisonment, and 127 to be fined or whipped. The capital sentences last year exhibit a large increase, while the sentences to transportation declined by 15·5 per cent. The executions of last year were double the usual average, including four of foreigners. The proportion of female commitments, which has shewn a marked increase of late years, suddenly decreased in 1856—a phenomenon attributable to the operation of the Criminal Justice Act in cases of larceny. The grand total cost of the prosecutions last year was 194,912*l.*—viz. 173,246*l.* on indictment, and 21,666*l.* on summary proceedings. Under the head of "prisons," it is shewn that the total committals to prison last year exhibited an increase of 2·9 per cent., but the result is less unfavourable on analysing the commitments. The relative criminality of the different counties is exhibited by a table, it appearing that the most criminal counties are Middlesex, Lancaster, and Surrey; and the least criminal, the Welsh counties generally, Norfolk, Lincoln, Derby, Suffolk, and Cambridge. One in every 3·6 of the persons committed in 1856 (132,689 in all) is known to have been a previous offender; and among these relapsed culprits, or, as the French criminal statisticians call them, récidives, the females greatly preponderate. It is an important fact that no less than 11,808 males and 2173 females were committed to gaol, and subject to prison discipline, who were under 16 years of age; nay, 1990 under 12 years of age! Of the numbers under 16, only 272 males and 25 females have been removed to the reformatory schools. The proportion of commitments was—under 21 years, 34·2 per cent.; between 21 and 30 years, 29·4 per cent.; and 30 years and upwards, 36·4 per cent. Of those committed 33·1 were utterly illiterate, 53·8 could read, or read imperfectly, 5·4 could do so well, and 0·3 were of superior instruction. The last class is on the increase, probably owing to the general diffusion of education. The return of the occupation of the committed culprits proves the rule, that the untaught, untrained, and unskilled form the great mass of the criminal population. Above one-half have no occupation whatever, or are classed as labourers, charwomen, and needleworkers. The proportion of mechanics and skilled labourers is only 21·7 per cent., and that of all persons raised above the mere artisan class only 3·8 per cent. The total cost of prisons amounted to 515,917*l*., the annual charge of each prisoner being 29*l*. 1*s*. 2*d*., which is pretty nearly the same as in 1847. Of the expense last year, 24,626*l*. was supplied from prison receipts, (prisoners' labour, &c.), 380,360*l*. from local funds and rates, and 110,929*l*. from public revenues. 2892 prisoners were let loose in the year 1856 on tickets of leave, and 88 on pardon; 113 died, 2 committed suicide, and 11 escaped. The cases of sickness were numerous. Such is the substance of the report on judicial statistics. —*Times*.

Legal Status of an Englishman in France.—With reference to a case—that of *Parkinson* v. *Bedenc*—which has lately come before the civil tribunal at Paris, the plaintiff's solicitor, Mr. Margary, addresses to *Galignani's Messenger* the following general statement of the existing law:—"Great facilities are given by the law of France for the arrest of a foreigner when the creditor is a Frenchman, and many an unfortunate Englishman has been incarcerated upon overdue bills of exchange (often obtained from him fraudulently) indorsed to a Frenchman. As, however, in the majority of cases, the party is not a bonâ fide holder for valuable consideration, but merely a man of straw, who lends his name for the occasion, (technically called a prête-nom), the debtor generally succeeds in obtaining his liberation on shewing to the Court the real nature of the transaction, and getting the arrest declared illegal. This, however, requires some time to effect, as, if he succeeds in the Tribunal de Commerce, the nominal creditor appeals to the Cour Impériale, and months elapse before a final judgment can be obtained. In the meantime the unfortunate debtor must remain in prison, unless he can deposit the amount claimed in the Classe des Consignations, or give bail; and as the surety is not only answerable, as in England, for the appearance of the debtor, but also for the payment of the debt and costs in case judgment is given against him and he is unable to meet the demand, it is almost impossible for a foreigner to find a substantial person willing to undertake responsibility. In England no distinction is made as to liability to arrest between a British subject and a foreigner, as neither can be arrested on mesne process, (that is, before judgment), unless the creditor can prove, to the satisfaction of a judge, that the debtor intends to leave the country. Art. 11, tit. 1, liv. 1, of the Code Napoleon, says:—'L'étranger jouira en France des mêmes droits civils que ceux qui sont ou seront accordés aux Français par les traités de la nation à laquelle cet étranger appartiendra.' It is not, however, sufficient that certain rights are accorded to Frenchmen by the laws of a foreign country for the subjects of that country to enjoy the same privileges in France; the reciprocity must be expressly stipulated for by treaty. (See Rogron's note on this article in his Code Civil Expliqué). Now, no treaty exists which puts Frenchmen in England and Englishmen in France upon an equality as to arrest for debt, the former enjoying in England the same privilege in that respect as a British subject, purely and simply by the law of the land. It strikes me, however, that if the case were brought officially to the notice of the French Government, they would admit the equity of the claim of British subjects to enjoy in France the same privileges as the law of England accords to Frenchmen in that country; and the cordial alliance which now exists between the two nations, the high sense of justice of the Emperor of the French, and the well-known zeal of our ambassador at Paris, seem to render the present moment peculiarly favourable for obtaining the desired object."

☞ The Queen has been pleased to appoint George Alfred Arney, Esq., to be Chief Justice of the Supreme Court of the colony of New Zealand.

☞ Commissioner to administer Oaths in Chancery.—Henry Grey Faber, Gent., of Stockton-upon-Tees, to be a commissioner to administer oaths in the High Court of Chancery in England.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—Henry Wyld Jackson, of Haverhill, Suffolk, in and for the county of Suffolk, also in and for the counties of Essex and Cambridge; Benjamin Soulby Simpson, of Boston, Lincolnshire, in and for the town of Boston, also in and for the Parts of Holland, in the county of Lincoln; Walter Brown, of Sheffield, Yorkshire, in and for the West Riding of the county of York; and George Tibbits, of Chester, in and for the city of Chester, also in and for the county of Chester.

GEORGE PREVOST OXLEY, Liverpool, merchant, Sept. 28 and Oct. 19 at 11, Liverpool: Off. Ass. Cazenove; Sols. Forshaw, Liverpool; Goodman, Liverpool.—Pet. f. Sept. 5.

JOHN CADMAN, Upholland and Billinge, Lancashire, brickmaker, Sept. 21 and Oct. 12 at 12, Liverpool: Off. Ass. Cazenove; Sol. Darlington, Millgate, Wigan.—Pet. f. July 23.

Meetings.

Mark Marks and *Samuel Barnett*, Liverpool, tailors, Sept. 21 at 11, Liverpool, aud. ac. sep. est. of *Mark Marks*.—*Chas. Erswell*, Saffron Walden, Essex, builder, Sept. 29 at 11, London, div.—*Josiah Joseph Hatch*, Friday-street, City, wholesale furrier, Sept. 29 at 11, London, div.—*George Brooke*, Leadenhall-market, London, and Windsor, Berkshire, provision dealer, Sept. 29 at 1, London, div.—*Wm. Mee*, Leicester, hosiery, Sept. 29 at half-past 10, Nottingham, aud. ac. and div.—*Benjamin Hemingway*, Derby, painter, Sept. 29 at half-past 10, Nottingham, aud. ac. and div.—*William Jones*, Brecon, builder, Oct. 15 at 11, Bristol.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Edward Richard Nash, College-hill, City, wine merchant, Oct. 1 at 2, London.—*Henry Gladwell Mortimer*, Lee, Kent, builder, Sept. 29 at 2, London.—*John Wheeldon*, Manchester, packing-case manufacturer, Sept. 29 at 12, Manchester.—*Jas. Clark*, St. Thomas the Apostle, Devonshire, tea dealer, Oct. 8 at 11, Exeter.—*Wm. Lake*, Topsham, Devonshire, maltster, Oct. 8 at 11, Exeter.—*Richard Bate*, Shrewsbury, wine merchant, Oct. 5 at 10, Birmingham.—*Richard Wheeler*, Hereford, miller, Oct. 5 at 10, Birmingham.

To be granted, unless an appeal be duly entered.

John Dangerfield the elder, Kirtley, Suffolk, builder.—*James Savage* the elder, *Charles John Savage*, and *James Savage* the younger, Noble-street, London, shirt manufacturers.—*George Stockbridge*, Oxford-street, draper.—*Wm. Morris*, Liverpool, grocer.—*Richard Rowlinson*, Liverpool, shipowner.—*James Bramwell*, Glossop, Derbyshire, grocer.

Petition Annulled.

J. Kirkham, Bridge-road, Battersea, Surrey, ironfounder.

Scotch Sequestrations.

Alexander Ross, Ayr, shoe manufacturer.—*Isabella Knox*, deceased, Melrose, Roxburghshire.—*Thomas Wright*, Rothes, Elginshire, merchant.

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GAZETTES.—Friday, *Sept.* 11.

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GEORGE WARD, Sandgate, Kent, hotel keeper, Sept. 24 at 2, and Oct. 23 at half-past 12, London: Off. Ass. Whitmore; Sols. Fry & Loxley, 80, Cheapside, London; Wightwick, Folkestone.—Pet. f. Aug. 29.

HOWARD GILL, 8, Gloucester-crescent North, Porchester-square, Bayswater, merchant, Sept. 23 at half-past 1, and Oct. 28 at 3, London: Off. Ass. Stansfeld; Sol. Edwards, 15, Coleman-street.—Pet. f. Sept. 9.

SAMUEL PYALL DIPROSE, St. Leonards-on-the-Sea, Sussex, grocer, Sept. 23 at 2, and Oct. 29 at 12, London: Off. Ass. Graham; Sols. J. & J. H. Linklater & Co., 17, Sise-lane.—Pet. f. Sept. 2.

THOMAS TAYLOR, Blackheath, Kent, grocer, Sept. 24 at 11, and Oct. 29 at half-past 11, London: Off. Ass. Stansfeld; Sol. Atkinson, Chancery-chambers, Quality-court, Chancery-lane.—Pet. f. Sept. 8.

EDWARD SMALL, Canterbury, Kent, plumber, Sept. 17 at 11, and Oct. 28 at 2, London: Off. Ass. Graham; Sols. Walker & Son, 13, St. Swithin's-lane.—Pet. f. Sept. 7.

JOHN PASSAM SMITH, Coventry-street, Haymarket, tea dealer, Sept. 23 at half-past 12, and Oct. 28 at half-past 2, London: Off. Ass. Graham; Sols. J. & J. H. Linklater & Co., 17, Sise-lane.—Pet. f. Sept. 9.

THOMAS JOHN MARSHALL, Bishopsgate-street Without, engineer, Sept. 23 at 1, and Oct. 29 at 11, London: Off. Ass. Graham; Sols. J. & J. H. Linklater & Co., 17, Sise-lane.—Pet. f. Sept. 9.

JOHN BADHAM, late of Hillingdon, but now of Ruislip, Middlesex, builder, Sept. 25 at 12, and Oct. 30 at half-past 12, London: Off. Ass. Stansfeld; Sols. Poole & Gamlin, 3, Gray's-inn-square.—Pet. f. Sept. 9.

THOMAS GUTTERIDGE, Wilton, near Salisbury, Wiltshire, coal merchant, (previously of Sutton, Surrey, farmer), Sept. 25 and Oct. 30 at 11, London: Off. Ass. Graham; Sol. Gilham, 24, Bartlett's-buildings, Holborn.—Pet. f. Sept. 10.

JAMES SCRUBY, Bishop Stortford, Hertfordshire, grocer, Sept. 25 and Oct. 30 at 12, London: Off. Ass. Stansfeld; Sols. Harrison & Dobree, 20, Hart-street, Bloomsbury.—Pet. f. Sept. 9.

ROBERT HALL and THOMAS HYDE, Dudley, Worcestershire, mill manufacturer, (trading under the style or firm of Robert Hall & Son), Sept. 25 and Oct. 15 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Caldicott & Canning, Dudley; Smith, Birmingham.—Pet. d. Sept. 1.

HENRY HUNT SAYER, Bristol, corn factor, Sept. 22 and Nov. 2 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan & Girling, Bristol.—Pet. f. Sept. 9.

JOHN HAMILTON and ROBERT HAMILTON, Halifax, Yorkshire, wire workers, (trading under the style or firm of John Hamilton & Son), Sept. 24 and Oct. 23 at 11, Leeds: Off. Ass. Young; Sols. Wavell & Co., Halifax.—Pet. d. Sept. 8.

RICHARD BURGE, Manchester, bookseller, Sept. 25 and Oct. 15 at 12, Manchester: Off. Ass. Pott; Sols. Higson & Robinson, Manchester.—Pet. f. Sept. 8.

WATSON WHITE, Bishop Wearmouth, Durham, grocer, Oct. 2 at 1, and Oct. 28 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Forster, Newcastle-upon-Tyne; Bolding & Simpson, 17, Gracechurch-street, London. — Pet. f. Aug. 31.

Meetings.

John Edmund Boyd, Grosvenor-street West, Pimlico, baker, Sept. 24 at 1, London, last ex.—*James Hoggins*, Strand, auctioneer, Sept. 22 at 2, London, aud. ac.—*Lewis Lewis*, Exmouth-street, Clerkenwell, draper, Sept. 26 at 11, London, aud. ac.—*Wm. Reynolds*, Pontypridd, Glamorganshire, draper, Oct. 1 at 11, Bristol, aud. ac.—*James Nelson Knapp*, Newport, Monmouthshire, sail maker, Oct. 15 at 11, Bristol, aud. ac.—*W. Hebdin*, Leeds, *Arthur Oates Hebdin*, Parliament-street, Westminster, Middlesex, and *John Browne* the elder, Leeds, merchants, Sept. 24 at 11, Leeds, aud. ac. joint est., and aud. ac. sep. est. of *Arthur Oates Hebdin*.—*G. Oddy* the younger, Dudley-hill, Bradford, Yorkshire, innkeeper, Sept. 24 at 11, Leeds, aud. ac.—*John Anderton*, Halifax, Yorkshire, grocer, Sept. 24 at 11, Leeds, aud. ac.—*John Holmes*, Bramham, Yorkshire, builder, Sept. 24 at 11, Leeds, aud. ac.—*John Robinson* and *Charles Robinson*, Leeds, woollen-cloth merchants, Sept. 24 at 11, Leeds, aud. ac.—*S. Wharton*, Chesterfield, Derbyshire, ironfounder, Oct. 13 at half-past 10, Nottingham, aud. ac. and div.—*George Baxter* and *George Toone*, Nottingham, dyers, Oct. 16 at half-past 10, Nottingham, aud. ac. and div.—*Ralph Wharton*, Nottingham, machine maker, Oct. 13 at half-past 10, Nottingham, aud. ac. and div.—*Wm. Winning*, Wirksworth, Derbyshire, smallware manufacturer, Oct. 16 at half-past 10, Nottingham, aud. ac. and div.—*G. J. Robinson*, Nottingham, silk merchant. Oct. 6 at half-past 10, Nottingham, aud. ac. and div.—*Joseph Hardy*, Nottingham, miller, Oct. 16 at half-past 10, Nottingham, aud. ac. and div.—*G. A. Hewitt*, Derby, chemist, Oct. 6 at half-past 10, Nottingham, div.—*Augustus Salter*, Swansea, Glamorganshire, grocer, Oct. 8 at 11, Bristol, div.—*William Marshall* and *William Smith*, Sheffield, Yorkshire, edge-tool manufacturers, Oct. 3 at 10, Sheffield, div.—*John Hanson* and *James Walker*, Sheffield, Yorkshire, coach builders, Oct. 3 at 10, Sheffield, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Joseph Slaughter, High-street, Southwark, Surrey, hop merchant, Oct. 5 at 1, London.—*Richard Torring*, Plymouth, builder, Oct. 5 at 10, Plymouth.

To be granted, unless an appeal be duly entered.

Richard Kemsley Day, Bermondsey-street, Southwark, Surrey, fuel manufacturer. — *Samuel Richards*, Bedford-square, apothecary.—*John Elphinstone Falqua HoChee*, New Bridge-street, Blackfriars, City, and Greenwich, Kent, vendor of paint.—*Henry Remington*, Railway-place, Fenchurch-street, gas fitter.—*James Nelson Knapp*, Newport, Monmouthshire, sail maker. — *William Fletcher Roberts*, Moreton-in-the-Marsh, Gloucestershire, apothecary.—*Charles Henry Riches*, Cardiff, Glamorganshire, carrier.—*Benjamin Baker*, Cardiff, Glamorganshire, apothecary.—*John Carless*, Gloucester, innkeeper.—*Michael Neville*, Liverpool, brassfounder.—*William Reay*, Birmingham, corn dealer.—*Richard Gomer*, Dudley, Worcester, dealer in fancy goods.—*William Audley*, Newcastle-under-Lyme, Staffordshire, auctioneer.

Petitions Annulled.

Edward Pollack, Fieldgate-street, Middlesex, sugar refiner. —*John Lowden* and *William Lowden*, Coleshill-street, Pimlico, shipowners.

Scotch Sequestrations.

David Alexander Bruce Murray, Glasgow, commission merchant.—*James Pendreigh* and *James Daly*, Glasgow, drapers.—*James Alexander*, Airdrie, draper. — *Catherine Ponsonby*, Edinburgh, proprietor of "The Christian Family Advocate."—*Israel Gullstam* and *James Rose*, Glasgow, hosiery manufacturers.—*James Chalmers*, *John Beattie*, and *Robert Duthie*, Montrose, merchants.—*Alexander Macintosh*, Edinburgh, coal merchant.—*John Mather*, Aberdeen, merchant.—*William Ruthven*, Dundee, shipbroker.—*John Baxter Stewart*, Edinburgh, wine merchant.—*John Bannerman*, Glasgow, baker.

Tuesday, *Sept.* 15.

Bankrupts.

JAMES MELROSE and THOMAS EDWARD HUSSEY, Hatton-garden, Middlesex, and Phoenix Works, Tividale, near Dudley, Staffordshire, boiler makers, Sept. 25 at 2, and Oct. 29 at 12, London: Off. Ass. Cannan; Sols. Crosley & Burn, 34, Lombard-street.—Pet. f. Aug. 6.

JAMES CHANDLER the elder, Epsom, Surrey, brewer, (formerly carrying on business with James Chandler the younger), Sept. 25 at 1, and Oct. 29 at half-past 12, London: Off. Ass. Cannan; Sols. Smith & Co., 3, Basinghall-street.—Pet. f. Aug. 13.

THOMAS DEAN, formerly of Staples-inn, Holborn, afterwards of St. Swithin's-lane, City, and now of Barnes, Surrey, and King's Bench-walk, Temple, City, scrivener, Sept. 24 and Nov. 3 at 1, London: Off. Ass. Graham; Sols. Roy & Cartwright, 4, Lothbury.—Pet. f. Sept. 8.

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THE JURIST.

LONDON, SEPTEMBER 19, 1857.

AN illustration of the rule, which in general prohibits a party to a cause from setting up the jus tertii, is afforded by the late case of *Edwards* v. *English*, (26 L. J., Q. B., 193). It was an interpleader issue in the ordinary form. The plaintiff claimed the goods under a bill of sale from the execution debtor, dated the 20th October, 1856, and duly registered. The defendant, who was the execution creditor, and whose execution had been put in force on the 21st October, 1856, sought to displace the plaintiff's claim by tendering in evidence a prior bill of sale of the same goods from the execution debtor to one Hatton. This bill of sale had been made bonâ fide, but had been held to be invalid against the same defendant, (execution creditor), under the 17 & 18 Vict. c. 36, s. 1, on the ground that the affidavit filed with it did not contain a description of the residence and occupation of the assignor*. The evidence of this prior bill of sale was rejected at the trial, and it was afterwards held by the Court in Banc to have been properly rejected. It was contended on behalf of the execution creditor—First, that the prior bill of sale afforded an answer to the claim, because, although void as against the parties mentioned in the statute—namely, execution creditors, assignees in bankruptcy or insolvency, and trustees for the benefit of creditors—it was still valid against a subsequent assignee of the goods, who was not among the parties named in the statute; in other words, that the prior bill of sale, though void as against the defendant, was not void as against the plaintiff; and that if the goods should be delivered to the plaintiff under his bill of sale, Hatton could maintain trover against him for them. Secondly, it was insisted that the question was concluded by authority, as the Court of Exchequer had decided, in *Gadsden* v. *Barrow*, (9 Exch. 514), that a prior bill of sale, valid in all respects, might be set up by the defendant under similar circumstances.

The Court, however, said that the nature of an interpleader issue is substantially to inform the conscience of the Court whether the execution debtor had any goods which were liable to the execution, and not to ascertain or settle the strict rights of other parties laying claim to the goods. The very case set up by the execution creditor went to shew that the goods seized were not the goods of the execution debtor, that he had parted with all property in them, and that therefore they were not liable to the execution. The Court referred, in support of their view, to *Carne* v. *Brice*, (7 M. & W. 183), which was a feigned issue between an execution creditor and the trustees of the debtor's wife, the issue being whether the goods were the debtor's; and it was held that the question to be tried between those particular parties was, whether the goods were liable to be taken in execution as the property of the husband, or whether they were the wife's, and that the trustees could not set up the jus tertii—that of the assignees in bankruptcy of the husband. This case they considered was confirmed, rather than shaken, by *Chase* v. *Goble*, (2 Mac. & G. 930), in which the execution creditor was allowed to shew that the goods were the property of the debtor's assignees by relation to an act of bankruptcy before the conveyance to the claimant, because there the evidence admitted was to shew that the deed relied upon by the claimant was in itself void as an act of bankruptcy. The case of *Gadsden* v. *Barrow* was distinguished upon the ground that there the prior bill of sale was valid in omnibus.

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* See *Hatton* v. *English*, (26 L. J., Q. B., 161), and also *Allen* v. *Thompson*, (1 H. & Norm. 15; 2 Jur., N. S., 451).

We submit, however, that this distinction somewhat militates against the rule, that the only question upon an interpleader issue is, whether the goods seized were or were not liable to the execution as being the debtor's goods, because, if the prior bill of sale was valid against the debtor, he had no property whatever in the goods at the time of the seizure. We incline to the opinion that *Gadsden* v. *Barrow* cannot stand consistently with the rule adopted by the Court in the principal case; and it appears that Martin, B., felt some doubt as to the correctness of the decision of his Court, for that learned judge said in *Gadsden* v. *Barrow*, "It seems to me unreasonable that the execution creditor should get the goods, when, upon his own evidence, he has no right to them." And if the prior bill of sale in the principal case was valid as against the subsequent assignee, it would for the purposes of the issue then before the Court be the same as if it were valid in omnibus. The Court of Queen's Bench, however, intimated that in their opinion the claimant under the first bill of sale could not successfully demand the goods, if they were restored to the claimant under the second bill of sale, but that facts might be pleaded which would be a good defence to such a demand, if not at law, at all events in equity. If this be so, then the statute may be read as declaring that unregistered bills of sale shall be void as against subsequent assignees of the goods.

It may be said that the case which we have been considering turns entirely upon the peculiar nature of a feigned issue. Even if that be so, it is a decision of importance, as a large number of such issues come before the Courts, and a principle, which may be applied to all of them, is here clearly enunciated. But the decision clearly goes beyond the form of such issues, for in this instance the question as stated in the issue was, whether the goods were the goods of the *plaintiff*, i. e. of the claimant, not of the execution debtor; and yet the Court held the substantial question to be, whether they were the goods of the debtor, so as to be liable to the execution. The case moreover involves a wider interpretation of the statute for registering bills of sale than has hitherto been put upon it, and shews the tendency of our Courts not to allow litigants to set up claims and titles of third persons, who are neither parties to the cause, nor in any way identified with them.

◆

The Thames Conservancy Act (20 & 21 Vict. c. 147) comes into operation on the 29th instant, and on account of its importance we at once present a summary of its main provisions to our readers. Many of them are doubtless aware that it is the result of a long protracted dispute between the Crown and the corporation of the city of London respecting the right to the soil and bed of the river, so far as the tide flows and reflows, and that at the commencement of the year her Majesty conveyed all her estate in the same to the corporation, as conservators of the river, upon certain trusts. All this, and much more, is recited in the preamble to the act, wherein it is also stated that the master and brethren of the Trinity House are entitled to the lastage and ballastage of vessels in the river, that many encroachments have been made on its shores and banks, and that in consequence of the great increase of steam navigation it has become necessary to provide safe and convenient places for embarking and disembarking steam-boat passengers. In order to effectuate the objects of the act, twelve conservators of the river Thames are to be appointed, and incorporated by that title. They will be the Lord Mayor, two of the aldermen, four of the Common Council, the deputy master of the Trinity House, two persons appointed by the Admiralty, one person by the Board of Trade, and one by the Trinity House. The Common Council are to appoint the two aldermen and the four members of their own body, who are to be conservators, and who are to continue in office so long as they are respectively aldermen and members of the Common Council. Provision is made for the supply of vacancies, and it is enacted that no bankrupt or insolvent person is to be a conservator. Officers for carrying the act into execution are to be appointed by the conservators at such salaries as they think reasonable, but the appointment of any new harbour master or deputy harbour master (whose duties are defined by the act) must be approved by the Trinity House. Conservancy meetings are to be presided over by the Lord Mayor, and five of the conservators are to be a quorum. Minutes of the proceedings, appointments, contracts, &c. are to be entered in a book, and to be received in evidence.

The powers given to the conservators by this statute are very extensive. They may purchase and hold lands. The estate of the Crown and of the corporation in the bed, soil, and shores of the river, together with all rights relating to the conservancy and regulation, and to the port of London, are vested in the conservators, reserving only to the Crown such part of the soil as is adjacent to any department of her Majesty's Government. The conservators are further empowered to enter into contracts for the purposes of the act, and to make bye-laws, rules, and orders for the regulation and improvement of the river and the navigation thereof, and (inter alia) for compelling vessels at anchor or otherwise to carry or exhibit lights from sunset to sunrise. Penalties not exceeding the sum of 5*l.* for breach of such bye-laws may be imposed. They may also grant to owners or occupiers of land fronting the river license to make a dock, pier, wharf, embankment, &c. in front of the land. They may authorise the erection of piers and landing-places, or may themselves erect them; free public stairs or landing-places, instead of those of the Watermen's Company, may be provided; toll-houses may be built on or near the piers, &c., where they may demand for every vessel touching at the pier, &c., for the purpose of landing or embarking passengers and goods, for every time of calling, sixpence, to be paid by the master of the vessel. They may require masters of sunken vessels to raise the same, and in default may do it themselves, and sell the vessel, with the tackle, &c.; and if the proceeds are insufficient to pay the expenses, they may recover the remainder from such masters. They are empowered to remove obstructions, and also any floating timber which impedes navigation; to place and lay down necessary buoys and beacons; to cut the banks of the river for the purpose of making, enlarging, or repairing any dock, canal, drain, &c.; to repair wharves, after default of owners to obey notice to that effect, and to recover the expense from such owners; to dredge and cleanse the river; to prevent ballast being taken in places where its removal may be injurious to navigation; and, in short, to do all acts necessary for the preservation of public interests connected with the river. No works, however, are to be commenced or executed upon the bed or shores of the river without the approval of the Admiralty.

The duties and liabilities of the conservators will be to present to both Houses of Parliament every year a general report of their proceedings; to deliver every year to the Commissioners of Woods and Forests a schedule of all sales, leases, or grants for docks, wharves, or any other works, and the sums received for the same, and to pay one-third of the amount to the said commissioners; to keep books of accounts, which shall be open to the inspection of the conservators, creditors, and mortgagees; to publish particulars of penalties; and to keep a register of mortgages, annuities, and transfers.

A fund called the "Conservancy Fund" is to be formed from the tolls, tonnage, port and harbour dues, rent, &c. received under the act, (except the part directed to be paid to the Commissioners of Woods and Forests). Sums already in hand from similar sources, together with the Port of London Tonnage Duty Fund, (accumulated under the 4 & 5 Will. 4, c. 32), are to be transferred to this fund.

The conservators may, for the purposes of the act, borrow money, not exceeding 100,000*l.*, on the credit of the fines, rents, tolls, &c.

The rights saved by the act are those of the Trinity House, the Commissioners of Sewers, the Metropolitan Board of Works, the Dock Companies in the port of London, the Watermen's Company, the Crown in the river Medway, the Duchies of Cornwall and Lancaster, the Inner and Middle Temple, the legal rights of ferry, and some others of less importance. The act is not to affect her Majesty's ships.

The remaining clauses of the statute, which contains 181 sections, relate to the penalties imposed for offences against it, and to the mode of recovering them.

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The *Times* of the 7th instant furnishes us with the following account of the proceedings in France against Mazzini, Ledru Rollin, and others, for having conspired (as it is said) to murder the Emperor of the French:—

"At the sitting of the Court of Assize the public prosecutor called on the Court to pass sentence on Ledru Rollin, Mazzini, Massarenti, and Campanella, who are accused of having, in complicity with Tibaldi, Grilli, and Bartolotti, already condemned, formed a plot to assassinate the Emperor of the French, but who have not surrendered to take their trial. The indictment and other documents having been read, the Court, after deliberation, gave a judgment to this effect:—It appeared from the examination before a magistrate, from documents produced, especially from letters of Mazzini, Massarenti, and Tibaldi, and from the disclosures of Bartolotti and Grilli, that in the course of the year 1857 Bartolotti and Grilli, having been recruited in London and York by Massarenti, an agent of Mazzini, were taken to the latter, 'who sent them to Paris to make an attempt on the life of the Emperor,' addressing them to Tibaldi, his agent in Paris, who was charged to direct them, and to remit to them the necessary instruments from those which had been deposited with him, and which consisted of sixteen pistols, loaded and primed, and of seven poniards. It appeared that Ledru Rollin, who in 1853 had caused 500f. to be given to a man named Kearsch, who admitted having formed at that time the project of attempting to kill the Emperor, was present at Mazzini's when Bartolotti for the first time was taken there; he took part in the discussion which ensued as to the time at which the Emperor was accustomed to go out; his presence at a conference essentially secret revealed the motive which took him there, and his participation in the plot; and, lastly, he supplied Bartolotti and Grilli with funds for their journey from London to Paris. It appeared that Bartolotti and Grilli left for Paris with passports in false names, and on their arrival went to Tibaldi, to whom they made themselves known by a password agreed on, and that that person took them to places at which they could approach the Emperor, and gave to Grilli two of the poniards deposited with him. Massarenti had brought Bartolotti up from York, and had threatened him with the anger of Mazzini for having left his post. Tibaldi, in a letter to Mazzini, had given an account of the measures taken by him with respect to Bartolotti and Grilli, terminating his letter with these significant words—'Our sick man' (meaning the Emperor) 'is no better; he comes from time to time. I believe that, from this, it will be difficult to cure him, but we shall neglect nothing to attain the desired object.' In order the better to secure the execution of his homicidal project, Mazzini adhered to the proposition made to him by Massarenti, to send two other persons to Paris with the same object as Bartolotti and Grilli. On that occasion he wrote from Genoa, on the 10th January, to Campanella, in London, to come to an understanding with Massarenti on the affair at Paris, which was more than ever urgent and desirable, and for which two persons had already been sent to Paris, announcing to him that two others proposed themselves, and insisting that the four men should act two by two, independently of each other; adding that that was the best plan to follow, and recommending that the two new men should be sent to Tibaldi, who was in possession of the matériel; at the same time he gave similar instructions to Massarenti, adding, that if the *friend* had left (the Emperor, who at that time was at Fontainebleau, was so designated) 'nothing could be done,' and that his return from the country must be waited for; and, lastly, Mazzini joined to the letter a few words of recommendation to Tibaldi, to the effect that he should receive the two new men as he had received the two others, and should treat them also without reserve, again terminating by the recommendation that they 'should act independently of each other, as that was the best for all.' From all these circumstances the Court declared that 'a resolution had been agreed on and concerted between Mazzini, Ledru Rollin, Campanella, Massarenti, Tibaldi, Bartolotti, and Grilli, to attempt to kill the Emperor, which resolution had been followed by an act calculated to prepare its execution, whereby the crime of forming a plot, (crime de complot), punished by art. 89 of the Penal Code, had been committed,' It therefore condemned Mazzini, Ledru Rollin, Campanella, and Massarenti, all four absent, to transportation."

It has been stated in several of our journals that a demand will be made upon the English Government for the extradition of these *contumaces* under the treaty of 1845 between this country and France. We cannot, however, suppose that such a demand, if made, would be acceded to, because the treaty in question applies neither to political offences nor to offences committed out of France. According to our law, a conspiracy to assassinate the Sovereign of the realm is high treason; it is a blow aimed at the head of the body politic, and is clearly a political crime. Whether the charge against the persons whose surrender may be demanded falls under the category of political offences or not must, we presume, be decided according to the law of the country upon which the demand is made, for otherwise the other contracting Government might render the exception nugatory, by declaring, subsequently to the making of the treaty, that no offences, according to its law, should be political offences. The importance of preserving, in spirit as well as in letter, an exception which was introduced for the purpose of affording a sanctuary to the oppressed and persecuted will be obvious to our readers without comment from us. Again: the conspiracy, or "forming a plot," which in this instance is the charge, occurred, if at all, in this country, so far as the four absentees are concerned. The agreement, which is the gist of this offence, was made here, if anywhere; and the overt act, if it can be called one, committed in France by the other accused, can hardly be said, we presume, to bring the case within the treaty. There is abundant reason why the words of the treaty should not be strained for this purpose, because the charge can be tried here, it being a violation of the laws of this country to plot against foreign governments with whom we are at peace. It is an offence against the comity of nations, and tends to involve us in war with the injured country. It was upon these grounds that Peltier was tried in this country for his libel upon Napoleon Buonaparte; and upon the same grounds Mazzini and others may be indicted and tried here for their alleged crime against the present Emperor of France.

◆

The construction to be placed on the 1st section of Lord Tenterden's Act, (9 Geo. 4, c. 14), in reference to the sense in which the word "acknowledgment" is to be understood, would appear, in the opinion of Bramwell, B., reported in the case of *Sidwell* v. *Mason*, (3 Jur., N. S., part 1, p. 649), to be not yet satisfactorily settled. The words of the 1st section of that statute are, "that in actions of debt or upon the case, grounded upon any simple contract, no acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing contract whereby to take any case out of the operation of" the stat. 21 Jac. 1, c. 16, "or to deprive any party of the benefit thereof, unless such acknowledgment or promise shall be made or contained by or in some writing to be signed by the party chargeable thereby." The questions to which the learned judge addressed himself were, first, whether, in an action of debt on a simple contract, an acknowledgment sufficient to take the cause of action out of the Statute of Limitations must be one that would, had the action been in assumpsit, have been a bar to the statute; and he appeared to be of opinion that in actions of debt an acknowledgment would be sufficient, though no promise could, according to the rules of law, be implied from its terms. Secondly, whether an expression of a hope by the debtor respecting his ability to pay a debt renders the acknowledgment of his liability unavailing against the statute. "I own," he observes, "I think it is a mistake to hold, as was done in some of the decided cases, that because, along with an unconditional acknowledgment of a debt, a man expresses a hope that he will be able to pay it, i. e. do what he must do, and acknowledges he ought to do, his acknowledgment does not satisfy the statute." The argument of the learned judge in support of the distinction he draws between the actions of debt and assumpsit is, that inasmuch as in an action of debt on simple contract the cause of action does not depend upon a promise, and that in the declaration no promise is laid, the mere acknowledgment of a liability will be sufficient to support, while a promise would be inconsistent with, the declaration in such action; and that the words of Lord Tenterden's Act must be taken to mean, that in an action of debt a written acknowledgment will take it out of the statute, and that in an action on the case a promise in writing will have that effect.

The opinion of the learned baron, that in an action of debt "the cause of action does not depend upon a promise," seems open to exception. In *Slade's case* (4 Rep. 508) it was resolved, that in every contract executory an action of debt or an action on the case on assumpsit would lie. In *Cloves* v. *Williams* (3 Bing. N. C. 868) the Court held that a count stating that the defendant accepted the bill, and promised to pay the amount, whereby an action had accrued to the plaintiff to demand the amount, was substantially a count in debt; and in *Compton* v. *Taylor*, (4 M. & W. 139), Parke, B., referring to *Cloves* v. *Williams*, observes, "I was anxious to find an authority for what seemed so consistent with good sense. There is no substantial difference between promising and agreeing." It may thence be inferred that the promise to be implied from the acknowledgment would, when the action was in debt, be conformable to and support the declaration.

The distinction suggested, that in sect. 1 of stat. 9 Geo. 4, c. 14, the word "acknowledgment" may refer to "debt," and the word "promise" to "action on the case," would not seem, if the statute can derive any elucidation from Lord Tenterden's judgment in the case of *Tanner* v. *Smart*, (6 B. & Cr. 603), a case decided shortly before the statute, to have been in the mind of the author when he drew it. At p. 605, referring to the act of Jac. 1, Lord Tenterden observes, "Though this statute puts all these actions on the same footing, it is only in actions of assumpsit that an acknowledgment has been held an answer;" clearly shewing that he considered the action of debt to come under the class of actions founded on promises, and that an acknowledgment that would take one cause of action founded on contract out of the Statute of Limitations would take another. That Lord Tenterden's Act made no alteration in the principle as to the legal effect of an acknowledgment or promise was laid down by Tindal, C. J., in *Maydon* v. *Williams*, (7 Bing. 167). In the case of *Hart* v. *Prendergast*, (14 M. & W. 746), Rolfe, B., remarks, "The principle is said to be, that the document must contain either a promise to pay the debt, or an acknowledgment from which a promise may be inferred. Perhaps it would be more correct to say, that there must in all cases be a promise to pay, but that from a simple acknowledgment the law implies a promise; but there must in all cases be a *promise* in order to support the declaration." It may, then, be presumed, that in Mr. Baron Rolfe's opinion, the word "promise" in the act could not refer only to actions on the case founded on a simple contract. If the promise, which the cases decide must be implied from the acknowledgment, will support the declaration when framed in debt, and if, therefore, the construction of Lord Tenterden's Act suggested by Bramwell, B., cannot be supported, it is conceived that an acknowledgment, to have the effect of barring the Statute of Limitations when an action of debt is brought, must be of as high a nature, and afford as conclusive evidence of the renewed liability of the debtor, as in an action of assumpsit.

The reason why the Courts have held that any expression of hope or expectation as to the payment of a debt, coupled with a clear acknowledgment of liability, renders such acknowledgment insufficient to take the debt out of the operation of the statute, may, perhaps, be found in the fact, that it is to the promise that the law attaches importance, not to the acknowledgment; and it is only by a presumption of law, described to be "a remnant of that judicial repugnance to the Statute of Limitations which at one time had nearly abolished it," that a promise has been implied from a simple acknowledgment. It has been denied by an American judge that such intendment is sound in principle. In the case of *Benghaus* v. *Calhoun*, (6 Watts's Penn. Rep. 219; quoted in Angell on Limitations, p. 231), Gibson, C. J., observes, "It follows neither necessarily nor naturally that the acknowledged existence of a debt, barred only so far as regards its means of enforcement, implies a promise to pay it; and an express promise it is not pretended to be. . . . It is a postulate of the doctrine that the statute which takes away the remedy leaves the existence of the duty untouched. . . . But a naked duty or moral obligation, though a sufficient consideration for an express promise, raises no presumption by implication of law; consequently, though we might accurately suppose the recognition of a debt to be evidence of consideration, we might not, agreeably to admitted analogies, suppose it to be evidence of a promise, because it is equally consistent with a declared determination not to pay." If this reasoning be sound, the difficulty observed on by Bramwell, B., may be attributed to the desire of the Courts to depart no further from the true principle by which a debt should be taken out of the statute—that is, as it is conceived, by an express promise to pay it. Though the decisions have established that a promise may be implied from an acknowledgment, anything ultra such acknowledgment, any statement, as of hope or expectation, that would be a qualification of an express promise to pay on demand, the law holds to be inconsistent with the implication it raises from a simple acknowledgment.

If "the decisions on this head of law are not in a satisfactory condition," it is submitted that any want of uniformity arises, not from too strict an interpretation of the acknowledgment, and a denial that a promise can be implied from its terms, but rather by allowing a debt to be taken out of the effect of the Statute of Limitations by any other means than by an express promise to pay it.

E. S.

GEORGE VINCENT, Mistley, Essex, beerhouse keeper, Sept. 25 at 12, and Oct. 30 at half-past 1, London: Off. Ass. Stansfeld; Sol. Jones, Colchester.—Pet. f. Sept. 7.

ABRAHAM NASH, Everett-street, Brunswick-square, Middlesex, builder, Sept. 25 at 1, and Oct. 30 at 2, London: Off. Ass. Graham; Sols. Bolding & Simpson, 35, Gracechurch-street.—Pet. f. Sept. 14.

THOMAS FRANCIS, Lamb-place, Kingsland-road, Middlesex, builder, Sept. 24 at 12, and Oct. 30 at 2, London: Off. Ass. Graham; Sol. Jones, 20, King's Arms-yard, Coleman-street, City.—Pet. f. Sept. 15.

JOHN HOPTON WYLD, Bristol, wine merchant, (trading under the style or firm of George Wyld & Sons), Sept. 28 and Nov. 2 at 11, Bristol: Off. Ass. Miller; Sol. Taddy, Bristol.—Pet. f. Sept. 11.

JOSEPH BLAKEY SPENCER, Halifax, joiner, Oct. 1 and 23 at 11, Leeds: Off. Ass. Young; Sols. Wavell & Co., Halifax.—Pet. d. Sept. 14, and f. Sept. 15.

WILLIAM EDWIN DEACON, Gosport, Hampshire, linendraper, Sept. 25 and Oct. 30 at half-past 1, London: Off. Ass. Graham; Sol. Low, 65, Chancery-lane.—Pet. f. Sept. 12.

MEETINGS.

Samuel T. Cundy, Belgrave-wharf, Lower Belgrave-place, Pimlico, statuary, Sept. 23 at 1, London, aud. ac.—*James Symes*, *Edw. B. Symes*, and *Reuben Raper*, Strand, electro platers, Sept. 28 at 11, London, aud. ac., and Oct. 6 at 12, div. sep. est. of *Reuben Raper*.—*Henry G. Mortimer*, Lee, Kent, builder, Sept. 29 at 2, London, aud. ac.—*James Catt*, High-street, Southwark, Surrey, and Lewisham and Greenwich, Kent, hop merchant, Sept. 28 at 11, London, aud. ac.—*Chas. Stanley Bevan* and *Charles Southern Bevan*, Street's-buildings, Chapel-street, Grosvenor-square, bookbinders, Sept. 28 at 11, London, aud. ac.—*Samuel Dalton*, *Daniel Dalton*, and *Alfred Dalton*, Chester, ironmasters, Sept. 28 at 11, Liverpool, aud. ac.—*William Spencer*, Holywell, Flintshire, grocer, Sept. 25 at 11, Liverpool, aud. ac.—*W. E. Heathfield* and *W. Aburrow*, Princes-square, Finsbury, manufacturing chemists, Oct. 6 at 1, London, div. sep. est. of *W. Aburrow*.—*Henry Stuart* and *Richard Kennett*, Cork-street, Burlington-gardens, tailors, Oct. 6 at 12, London, div. joint est., and div. sep. est. of *Henry Stuart*.—*Alfred Ellis*, Wimborne, Dorsetshire, wine merchant, Oct. 6 at 1, London, div.—*James W. Aldridge*, Witham, Essex, corn merchant, Oct. 6 at half-past 12, London, div.—*James Bramoley*, Holcomb Brook, near Bury, Lancashire, cotton manufacturer, Oct. 1 at 12, Manchester, aud. ac.; Oct. 8 at 12, div.—*Thomas C. M'Kay* and *John M'Kay* the younger, Newcastle-upon-Tyne, hosiers, Oct. 9 at 11, Newcastle-upon-Tyne, div.—*William Johnston*, Whitehaven, Cumberland, currier, Oct. 7 at 12, Newcastle-upon-Tyne, div.—*Thomas H. Griffiths*, Lowesmoor, Worcestershire, coal dealer, Oct. 8 at half-past 11, Birmingham, div.—*Richard Berry*, Ormskirk, Lancashire, innkeeper, Oct. 8 at 11, Liverpool, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Ralph Wharton, Nottingham, machine maker, Oct. 27 at half-past 10, Nottingham.—*Samuel Wharton*, Nottingham, ironfounder, Oct. 27 at half-past 10, Nottingham.—*George M. Hirst*, *George Hirst*, and *Wm. F. Wilman*, Batley, Yorkshire, manufacturers, Nov. 3 at 11, Leeds.—*Joseph E. Blech*, Liverpool, merchant, Nov. 3 at 11, Leeds.

To be granted, unless an Appeal be duly entered.

Thomas Dalton, Darlington, Durham, rope manufacturer.—*James Turner*, Newcastle-upon-Tyne, oil merchant.—*Enoch Hughes* and *Wm. Adams*, Princes End, Sedgley, Staffordshire, ironfounders.

PARTNERSHIPS DISSOLVED.

Thomas Lee and *Thomas Alder Lee*, Witney, Oxfordshire, attornies-at-law, solicitors, and conveyancers.—*George R. Corner* and *Charles C. Corner*, Tooley-street, Southwark, Surrey, attornies and solicitors.

SCOTCH SEQUESTRATIONS.

Andrew Climie, Lochwinnoch.—*Andrew Landells*, Airdrie, draper.—*Charles M'Kay*, Edinburgh, lodging-house keeper.—*John Hutchison*, Glasgow, contractor.—*John Buchan*, Glasgow, accountant.—*David Mackie*, St. Andrews, plumber.—*Alexander Greig*, Dundee, net manufacturer.—*J. Murdoch*, Glasgow, commission agent.—*Moritz Frankenberg*, Glasgow, fancy leather worker.

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GAZETTES.—Friday, *Sept.* 18.

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THOMAS GRATWICK, Camberwell-green, late of High-street, Southwark, Surrey, cheesemonger, Sept. 30 at 12, and Nov. 4 at 2, London: Off. Ass. Stansfeld; Sol. Peckham, Serjeants'-inn, Fleet-street.—Pet. f. Sept. 10.

CHARLES BROWN, Birmingham, leather dealer, Sept. 28 and Oct. 19 at half-past 10, Birmingham: Off. Ass. Whitmore; Sol. Collis, Birmingham.—Pet. d. Sept. 16.

THOMAS WHEELER the younger, Vowchurch, Herefordshire, miller, Oct. 1 and 22 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Pritchard, Hereford; Suckling, Birmingham.—Pet. d. Sept. 17.

JAMES NEWMAN, Long Sutton, Lincolnshire, bookseller, Sept. 29 and Oct. 27 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Coope, Nottingham.—Pet. d. Sept. 15.

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GEORGE BEAVEN, Chippenham, Wiltshire, cordwainer, Sept. 29 and Nov. 3 at 11, Bristol: Off. Ass. Miller; Sol. Salmon, Bristol.—Pet. f. Sept. 15.

ALEXANDER HARTHILL and JOHN M'KEAN, Huddersfield, Yorkshire, woollen merchants, Oct. 2 and 23 at 11, Leeds: Off. Ass. Young; Sols. Sykes, Huddersfield; Cariss & Cudworth, Leeds.—Pet. d. and f. Sept. 9.

DANIEL DUTTON, Liverpool, grocer, Oct. 1 and 22 at 11, Liverpool: Off. Ass. Turner; Sols. Evans & Son, Liverpool.—Pet. f. Sept. 8.

JOHN LLOYD, Bryn Salwrn, Llandderfel, Merionethshire, cattle salesman, Oct. 1 and 22 at 11, Liverpool: Off. Ass. Bird; Sols. Evans & Son, Liverpool.—Pet. f. Sept. 14.

THOMAS FREAR, Manchester, draper, Sept. 28 and Oct. 23 at 12, Manchester: Off. Ass. Fraser; Sols. Sale & Co., Manchester: Lawrence & Co., 12, Bread-street, Cheapside, London.—Pet. f. Sept. 12.

JAMES M'CARTNEY, South Shields, Durham, provision merchant, Oct. 2 and Nov. 11 at half-past 11, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hodge & Harle, Newcastle-upon-Tyne; Sudlow & Co., 38, Bedford-row, London.—Pet. f. Sept. 15.

Meetings.

George Durrant Starling, Ormesby, Norfolk, grocer, Oct. 6 at 11, London, aud. ac.—*Charles Lewton*, Maesteg, Glamorganshire, publican, Oct. 8 at 11, Bristol, aud. ac.—*Edwyn Thompson*, Lydbrook, Gloucestershire, innkeeper, Oct. 1 at 11, Bristol, aud. ac—*Gilbert Hodgson* and *Wm. Atcheson*, Sunderland, Durham, timber merchants, Oct. 2 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*James Bateman*, Southampton-buildings, Middlesex, agent, Oct. 13 at 12, London, div.—*Wm. Sadgrove* the younger and *Richard Ragg*, Eldon-street, Finsbury, Middlesex, and Dunning's-alley, Bishopsgate-street, City, cabinet makers, Oct. 10 at 12, London, div.—*Arthur Holden*, Bury, Lancashire, paper manufacturer, Oct. 2 at 12, Manchester, aud. ac.; Oct. 9 at 12, div.—*Robert Adams*, Liverpool, merchant, Oct. 15 at 11, Liverpool, div.—*John Dance* and *Henry Wane*, Fairford, Gloucestershire, grocers, Oct. 15 at 11, Bristol, div. joint est., and div. sep. est. of *John Dance*.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

George Robins Booth, Portland-place, Wandsworth-road, Surrey, engineer, Oct. 9 at half-past 12, London.—*Joseph James Dell*, Southwark-bridge-road, Surrey, shoe manufacturer, Oct. 9 at 11, London.—*Tilden Chrismas*, Chatham and Sheerness, Kent, coal merchant, Oct. 14 at 11, London.—*David Arthur Singer*, Oxford-street, tailor, Nov. 9 at half-past 1, London.—*Edwyn Thompson*, Lydbrook, Gloucestershire, innkeeper, Oct. 23 at 11, Bristol.—*William Reynolds*, Pontypridd, Glamorganshire, draper, Nov. 3 at 11, Bristol.—*Thos. Cuthbert M'Kay* and *John M'Kay* the younger, Newcastle-upon-Tyne, hosiers, Oct. 9 at half-past 11, Newcastle-upon-Tyne.—*Wm. Winning*, Wirksworth, Derbyshire, small-ware manufacturer, Oct. 13 at half-past 10, Nottingham.

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Tuesday, *Sept.* 22.

Bankrupts.

JAMES SAUNDERS, Thurlton, Norfolk, miller, Oct. 2 at 11, and Nov. 4 at 2, London: Off. Ass. Stansfeld; Sols. Copeman & Sons, Norfolk; Aldridge & Bromley, 1, South-square, Gray's-inn.—Pet. f. Sept. 9.

THOMAS BLABER DANIELL, High-street, Poplar, ironmonger, Oct. 2 at half-past 12, and Oct. 27 at 1, London: Off. Ass. Lee; Sol. Moss, 23, Moorgate-street, City.—Pet. f. Sept. 18.

HENRY WHITTELL, Leamington Priors, Warwickshire, shoemaker, Oct. 9 at 10, and Oct. 22 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Pool, Kenilworth; Hodgson & Allen, Birmingham.—Pet. d. Sept. 11.

HENRY ARNOLD and HENRY JOHN ARNOLD, Uttoxeter, Staffordshire, cheese factors, Oct. 5 and 26 at half-past 12, Birmingham: Off. Ass. Whitmore; Sols. Welby & Flint, Uttoxeter; James, Birmingham.—Pet. d. Sept. 21.

DAVID JOHN ALLEN, Carmarthen, draper, Oct. 5 and Nov. 3 at 11, Bristol: Off. Ass. Acraman; Sols. Sale & Co., Manchester; Leman & Humphrys, Bristol.—Pet. f. Sept. 7.

WILLIAM CONYER and JOSEPH CONYER, Dewsbury, Yorkshire, shoddy dealers, Oct. 9 and 30 at 11, Leeds: Off. Ass. Young; Sols. Scholes & Son, Dewsbury; Bond & Barwick, Leeds.—Pet. d. Sept. 16; f. Sept. 17.

Meetings.

John Ince, Eaton-terrace, Pimlico, surgeon, Oct. 15 at 11, London, last ex.—*Lewis H. Myers*, Wellesley-street, Stepney, dealer in Manchester goods, Oct. 15 at 12, London, aud. ac.—*Charles C. Brangwin* the younger, Blackheath-road, Greenwich, and High-street, Deptford, Kent, grocer, Oct. 8 at 1, London, aud. ac.—*George W. Glinister*, Spring-garden-place, and *Wm. J. Glinister*, Green-street, Stepney, grocers, Oct. 3 at 1, London, aud. ac.—*Charles Moody*, Portsea, saw maker, Oct. 15 at 2, London, aud. ac. and div.—*Wm. Petrie Waugh*, Studland, Dorsetshire, and Little Abingdon-street, Westminster, Middlesex, brick maker, Oct. 3 at 1, London, aud. ac.—*Edward Strange*, Swindon, Wiltshire, draper, Oct. 15 at 11, Bristol, aud. ac.; Oct. 22 at 11, div.—*Wm. Davis* and *Wm. Henry Davis*, Haverfordwest, drapers, Oct. 22 at 11, Bristol, aud. ac.; Oct. 30 at 11, div.—*Thomas Bennett*, Oldbury, Worcestershire, and West Bromwich, Staffordshire, ironmaster, Oct. 2 at half-past 11, Birmingham, aud. ac.—*Edward Bevan*,

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THE JURIST.

LONDON, SEPTEMBER 26, 1857.

Although a married woman could formerly by fine or recovery, and now after the abolition of fines and recoveries can by a deed acknowledged, deal, amongst other interests, with her reversionary interests in real estate, she has never been allowed to dispose of or deal with her reversionary interests in personal property not settled to her separate use; and even though her husband joined with her in an assignment thereof, *his* own interest, subject to her equity to a settlement in the event of such property ceasing to be reversionary during her life, alone passed to the assignees; so that in the event of the wife outliving her husband, the property still continuing reversionary, it would survive to her. (See *Hornsby* v. *Lee*, 2 Mad. 16; *Box* v. *Box*, 2 Con. & L. 605; *Box* v. *Jackson*, 1 Dru. 55; *Le Vasseur* v. *Scratton*, 14 Sim. 116; and *Ellison* v. *Elwin*, 13 Sim. 309).

Upon the same principle, in a case very frequently referred to, it was held, that where an annuity or life interest in a fund was given to a married woman, and not settled to her separate use, the husband could not, even with her concurrence, dispose of her life interest, except during his own life; for if she outlived him, such part of the income as would be enjoyed by her after the coverture had ended was reversionary. (See *Stiffe* v. *Everitt*, 1 My. & C. 37).

It was afterwards attempted to evade the law by obtaining for the married woman an assignment of all preceding interests, so as thereby, if possible, to convert her reversionary interest into an interest in possession, and thus enable her husband to deal with it, and bar her right by survivorship. It was, however, held, that the husband could not by these means do indirectly what he could not do directly; and that although the interests of all other persons were vested in the wife, no merger would take place, so that the husband could not assign such property; and if it were in court, although the consent of all other parties interested in it were obtained, it would not be ordered to be paid out to the husband or his assignees. This was determined by Lord Cottenham in the important case of *Whittle* v. *Henning*, (2 Ph. 731), affirming the decision of Lord Langdale, M. R., (reported 11 Beav. 222), and overruling the decision of Sir L. Shadwell, V. C., in *Hall* v. *Hugonin*, (14 Sim. 595); and his Lordship in that case seems clearly to have considered that the disability imposed upon a married woman, with regard to the alienation of her reversionary interest in her personalty, was highly beneficial to her; for when it was urged in argument that the married woman had, on obtaining a surrender or release of all other interests in a fund in which she had a reversionary interest, by means of a species of merger, rendered it an interest in possession, his Lordship said, "that such an argument could only prevail if the Court should, by analogy to law, establish an equitable merger for the sole purpose of depriving the wife of the *protection* to her reversionary interest which it has hitherto afforded, which would be to permit a supposed analogy to the rules of law to defeat the rules and practice of the Court of equity in the *protection* it afforded to married women, although in all other cases it disregarded the rules of law and the rights of husbands when they interfered with such rules and practice."

Moreover, the Court of Chancery allows a married woman no equity to a settlement out of her reversionary personal property. The reason for this is stated to be, that the right to a settlement is an obligation which the Court fastens, not upon the property, but upon the right to receive it; and that if the right attaches at all, it must attach with all its incidents, one of which is, that the wife waiving it, must waive it by her consent in court, which she cannot do in the case of reversionary personal property. (*Osborn* v. *Morgan*, 9 Hare, 434). Under the old law, therefore, a married woman would have been obliged to wait until her personal property ceased to be reversionary before she could claim a settlement out of it.

Notwithstanding the sedulous endeavours of the Court of Chancery by every means to render the reversionary interests in personalty of a married woman inalienable, so as to give her a chance of taking it by survivorship, it has been thought by many that this, like other systems of protection, was injurious to those for whom it was intended to be beneficial; and it was said that as in many cases it must be of the highest importance for a married woman to be able to dispose of her reversionary interest in personalty, the law, by rendering such disposition illegal, did not prevent all dealings with, but did prevent the best price being obtained for it; since whoever purchased such a reversionary interest would, in calculating its price, demand a large allowance to be made for the contingency of the wife surviving her husband; and if the husband and wife attempted to sell her interest by survivorship, for the contingency of the wife, who survived her husband, notwithstanding she had joined in an assignment, insisting upon her legal rights notwithstanding the assignment. It was also alleged that the result of the law was to throw such transactions into the hands of not the most respectable individuals, greatly to the detriment of those who sold their reversionary interests.

On the other hand, many opposed any change in the law, as putting it in the power of married women inconsiderately, and for a momentary advantage, to deprive themselves of what was intended to be a *permanent provision* for them. A bill upon this subject, having been for several sessions before the Legislature, has at length received its sanction, though accompanied by amendments which very materially narrow the operation which its authors intended it should have.

This act, (20 & 21 Vict. c. 57), which does not extend to Scotland, enacts, that "after the *thirty-first day of December*, 1857, it shall be lawful for every married woman by deed to *dispose of every future or reversionary interest*, whether vested or contingent, of such married woman, or her husband in her right, *in any personal estate* whatsoever to which she shall be entitled under any instrument made after the said *thirty-first day of December*, 1857, (*except* such a settlement as after mentioned), and also *to release or extinguish any power* which may be vested in, or limited or reserved to, her in regard to any such personal estate, as fully and effectually as she could do if she were a feme sole; and also to *release and extinguish her right or equity* to a settlement out of any personal estate to which she, or her husband in her right, may be entitled in possession under any such instrument as aforesaid; *save* and except that no such disposition, release, or extinguishment shall be valid unless the husband concur in the *deed* by which the same shall be effected, nor unless the deed be acknowledged by her as hereinafter directed: *provided* always, that nothing herein contained shall extend to any reversionary interests to which she shall become entitled by virtue of any deed, will, or instrument by which she shall be restrained from alienating or affecting the same." (Sect. 1). The 2nd section provides that deeds to be executed in England or Wales for the purposes of the act must be acknowledged in the manner required by the 3 & 4 Will. 4, c. 74; and deeds to be executed in Ireland in the manner required by the 4 & 5 Will. 4, c. 92.

Then follows a proviso, "That the powers of disposition given to a married woman by the act shall not interfere with any power which independently of the act may be vested in or limited or reserved to her, so as to prevent her from exercising such power in any case, except so far as, by any disposition made by her under the act, she may be prevented from so doing in consequence of such power having been suspended or extinguished by such disposition." (Sect. 3).

And it is also provided, "That the powers of disposition hereby given to a married woman shall not enable her to dispose of any interest in personal estate settled upon her by any settlement or agreement for a settlement made on the occasion of her marriage." (Sect. 4).

As a general rule, then, under this act married women may, after the 31st December, 1857, with the concurrence of their husbands, by deed acknowledged, deal with reversionary interests in personalty which they may become entitled to by any instrument made after that day.

There is, however, an important exception to this rule in the case of reversionary interests in personal estate comprised in any *settlement or agreement for a settlement on marriage*. As to a very large class of cases, therefore, the law remains unaltered.

Again: it puts it in the power of all persons conferring reversionary interests in personalty on married women, "by any deed, will, or instrument," to restrain her from alienating or affecting the same. It is therefore by no means improbable that the introduction of clauses restraining alienation will still further lessen the operation of the act.

The 3rd section of the act is not very clearly expressed, and its meaning may, perhaps, be best illustrated by an example. Suppose personal property be bequeathed to A. for life, remainder to B., a married woman, absolutely, with a power of sale to B. during the life of A.: this act does not propose to interfere with the power of A. to sell under the power, as she can at present, but she may, by a disposition under the act, either wholly or partially suspend or extinguish the power.

Questions doubtless will arise under this act; for instance, as we have already seen, a married woman cannot now insist upon her equity to a settlement, because she cannot waive her right to a settlement; but as she can now, in cases coming within the operation of the act, "extinguish her right or equity to a settlement," it would seem to follow that she can now apply in such cases for a settlement; but the act has no express provision on the subject.

The act, in some cases, seems to put married women to unnecessary expense. Suppose, for instance, there be in court reversionary personal property, and that the married woman and the parties having prior interests are willing to concur in giving the property to the husband unconditionally, or upon the terms of his making a settlement upon his wife, she will nevertheless, it seems, be obliged, with the concurrence of her husband, to execute a deed acknowledged in order to effect that object; for her examination by the Court will not, as in the case of her interest being immediate or in possession, be sufficient for that purpose. This seems to be an oversight.

Did our space allow it, other difficulties likely to arise when the act comes into operation might be pointed out. It is, however, on the whole, an average specimen of the mode in which our law of property is altered, if not amended, by the Legislature.

◆

The applicability of compensation clauses in acts of Parliament obtained by public companies, and in similar statutes, was discussed, and a general principle upon the subject laid down, in the case of *Broadbent* v. *The Imperial Gas-light Company*, (3 Jur., N. S., part 1, p. 221; 26 L. J., Ch., 276). The question before the Court was, whether an injunction should be granted to restrain the defendants from making gas in a manner injurious to the garden of the plaintiff, who was a market gardener in Fulham. This depended in some respects upon the answer to another question, viz. whether the plaintiff could obtain redress under the compensation clause, (sect. 68 of the Lands Clauses Act), which was incorporated in the special act of the Gas Company, because if he could it was unnecessary for the Court to interfere by injunction. Upon appeal to the Lord Chancellor from an order of Sir W. P. Wood, V. C., granting the injunction, the attendance of Crompton and Willes, JJ., was requested, for the purpose of a construction being put upon such compensation clause. It appeared that the company had been established for many years, and the plaintiff took his garden on lease in 1832. Until the year 1851 the company had manufactured their gas in a retort-house which was situated about 240 feet from the garden; but in that year they built a new retort-house much nearer to the garden, and manufactured gas to a much larger extent, and so as to be injurious to the garden. An action having been brought for such injury, and having been referred, an award was made in favour of the plaintiff for the damage he had sustained up to the year 1854. In 1856 the company began still further to add to their works, and to increase the evil to the plaintiff which had previously existed. It was under these circumstances the injunction was sought. Upon the main question the two common-law judges were of opinion, which was confirmed by that of the Lord Chancellor, that this was not an injury for which compensation could be claimed by the plaintiff, as one whose land was "injuriously affected by the execution of the works" of the company. The broad principle upon which the judgment proceeded was, that the 68th section applies only where compensation is sought for the consequences of works executed by authority of the act of Parliament, and therefore which would be altogether unredressed were not statutory compensation given. In such a case the act of Parliament would of itself be a defence to an action or indictment; but this would not be so in respect of a wrongful act unauthorised by the statute, for which, therefore, the common-law remedies are still open. Thus, for an injury caused by reason of the *execution of works authorised by the statute*, when properly done, compensation must be sought under the statute; if, however, they are negligently or improperly executed, so as to cause damage to other persons, an action or indictment will lie; so, where the acts done are not authorised by the act of Parliament. If the acts done, however, are authorised by the act of Parliament, and properly done, but do not come within the expression "works executed," there is no remedy either by statute or at common law, the public benefit, in such case, being considered sufficient compensation. In the instance before the Court it was held, that the injury—that is to say, making the gas so near the garden as to injure it—was not authorised by the act, and was not by reason of a "work executed" by the company; and further, that in this case a clear remedy was reserved independently of the compensation clause; as, by the 29th section of the Gasworks Clauses Act, 10 & 11 Vict. c. 15, also incorporated, it is enacted, that "nothing in this or the special act contained shall prevent the undertakers from being liable to an indictment for nuisance, or to any other legal proceeding to which they may be liable in consequence of making or supplying gas." The following extracts from the judgment of the two common-law judges will further illustrate the above views, and shew clearly the nature of the decision:—"We are of opinion," they said, "that no compensation is given by the 68th section, or, generally speaking, by any compensation clause, in matters not made lawful, but which, notwithstanding the statute containing or incorporating the compensation clause, remain wrongful acts, for which the remedy by action is not taken away. *We consider it to be an universal rule, applicable to this class of statutes, that statutory compensation is given only for acts authorised by the statute; in effect taking away the right of action of the person injured.* . . . . All the acts, taken together, will read thus—that the company may make such works as are necessary for the lighting of the specified districts; that the company shall have no privilege or exemption from liability for anything they may do in making or supplying gas; and in respect of any injury caused by erecting their permanent works, compensation may be obtained, under the 68th section, as for a matter rendered lawful; but that for damage caused by making or supplying gas to an extent injurious to the public or to individuals, and therefore unauthorised by the act, the remedy shall be by indictment or by action. . . . . The injury in question could not be said to have resulted from the execution of the works, within the meaning of these words in the section. The expression 'the works' seems to us more properly to apply to the construction of the manufactory than to the use of it from day to day for the purpose of making or supplying gas. If an attempt were made to apply the 68th section to the damage, present and future, it would be met by the impossibility of ascertaining at once the amount of the future damage. . . . . . On the part of the defendants, the cases upon the construction of railway acts were referred to as favourable to their argument. We, however, take a different view of their effect. We are not aware of any decided case in which a railway company, properly executing the powers expressly or impliedly conferred upon them by the special act, *other* than and after the making of the permanent works, has been held liable to make statutory compensation under sect. 68. We are aware that such compensation has been given by juries, but we are not aware that that course has been sanctioned by any Court in Westminster Hall. The cases relating to railways seem to us to establish that compensation is given in respect of the calculable damage caused, or to be caused, in or by the execution of the permanent works of the company authorised by the statute; for instance, obstructing ways or injuring lights. The question as to when future damage may be assessed is discussed in the judgment of Parke, B., in *Lee* v. *Milner*, (2 M. & W. 824). It is also established, that an injurious act, authorised by statute, and done by the company negligently, in abuse of their statutory powers, is the proper subject of an action, and that an act other than the erection of the permanent works, if properly done by the company in pursuance of the statute, whatever damage it may cause, is considered sufficiently compensated for by the public benefit expected to follow, and is neither a subject of action nor of compensation. Some of these points were considered in a recent case of *Lawrence* v. *The Great Northern Railway Company*, (16 Q. B. 243)." And with reference to this part of the judgment the Lord Chancellor said, "The learned judges came to the conclusion that the 68th section of the Lands Clauses Consolidation Act did not apply, for that act only gave compensation in cases where the company incorporated was doing an act authorised by the private act, but which nevertheless caused damage to an individual; as, for instance, if they were to build a retort-house where they were authorised, and wholly blocked up the light of my house, that would have been an act authorised by the section for the making and supplying of gas, and it would have been an act as to which, but for that clause, there would have been no redress."

Therefore, as a general rule, when we have to inquire whether the compensation clause applies, we should consider first whether the act complained of was done in execution of the works of the company, and if so, whether they were works authorised by the act. If they were, compensation may be sought under the section. If, however, the injury was caused by the improper or negligent execution of such works, or if they were not authorised by the statute, the remedy is by indictment or action. If the injury was not by reason of works executed, but of acts authorised by the statute, there is no remedy either by statute or at common law.

Another case illustrating the same principles is *Stainton* v. *Woolrych*, (3 Jur., N. S., part 1, p. 257; 26 L. J., Ch., 300). There the injury was caused by the execution of works authorised by the statute; an injunction was refused, and the plaintiff was left to seek statutory compensation. The complaint was against the Metropolitan Board of Works and the Lewisham District Board of Works, for making sewers, whereby they had withdrawn the water from an ancient spring, and drained the ponds of the plaintiff. The Master of the Rolls, in delivering judgment, first distinguished the case before him from those in which the question was between adjoining owners of land, saying that the defendants could not be considered as being clothed with the rights or obligations of contiguous landowners, but that their position was defined by statute. "If either of these boards," said the learned judge, "were producing this injury by the unskilful or improper construction of these sewers, the Court would interfere to prevent it. The cases of *Jones* v. *Bird* (5 B. & Al. 837) and *The Grocers' Company* v. *Donne* (3 Bing. N. C. 34) do not apply to this, because the evidence shews that both these sewers are constructed skilfully, and are well adapted to discharge the duties imposed on them. . . . . The right of the plaintiff to the enjoyment of the water is interfered with, but as it is done under the provisions of an act of Parliament, the right of the plaintiff is limited to a claim for compensation. No doubt it may well happen that in this, as in many other cases, of which the experience of persons connected with public works, such as railways and canals, or the like, may furnish many instances, the sums awarded by a jury may not be a real compensation for the injury done. A juty, like some of the neighbours, who call this 'Stainton's folly[*],' may be unable to appreciate the pleasure enjoyed by the plaintiff in this ornamental water. But this is an evil inseparable from these cases. The Legislature have thought fit to enact that individual rights, in other cases held so sacred, are in this case to be sacrificed for the public benefit, and has conceded to juries the power and duty to give such compensation as they shall consider to be fair and just to the owner for the loss he sustains—not a mere pecuniary loss, but taking into account the loss of pleasure and profit derived from it, even if it be to a considerable extent fanciful, and such as few others could sympathise with."

Correspondence.

TO THE EDITOR OF "THE JURIST."

Sir,—There are two cases decided by Sir J. Stuart, V. C., which ought not, as I think, to be followed without undergoing the test of a rigorous examination. Probably The Jurist, or some of its correspondents, may be able to adduce some considerations which would clearly manifest the soundness or unsoundness of the decisions alluded to.

The first case to which I shall draw your attention is that of *Goodall* v. *Gawthorne*, (18 Jur., part 1, p. 927).

The question was, whether a posthumous heir or an intermediate heir should be entitled to rents accrued due between the death of the ancestor and the birth of the posthumous heir, but which had not been recovered by the intermediate heir. The Vice-Chancellor held the posthumous heir entitled. This decision evidently rests on the assumption, that on the birth of a posthumous heir his right relates back, so as to defeat the intermediate heirship as from the death of the ancestor. It is quite clear that such relation back does not subsist for all purposes; for the Vice-Chancellor admits, as undoubted law, that if the intermediate heir actually receive the rents, he shall not account for them, which he certainly would have to do if the relation back could be established as a general proposition. It is equally clear, on the authority of De Grey, C. J., in *Goodtitle* d. *Newman* v. *Newman*, (3 Wils. 526), that the doctrine of relation back could not, under the old law of tortious alienation, have been applied so as to revest the freehold in the posthumous heir, as against the feoffment of the intermediate heir.

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[*] The plaintiff's testator, Mr. Stainton, at an expense of 2000*l*. and upwards, taking advantage of a spring of water in one of his fields, formed an ornamental pond, and conducted the stream through his grounds by a rivulet extending about three-quarters of a mile; it was also made to supply the house, and to flow through the flower-garden near the house into some ornamental ponds. His neighbours gave to his works the name of "Stainton's folly," and the Board of Works made a main sewer, and the District Board of Works made a sewer into the main sewer, so as to divert the spring and drain the ponds.

Under the old law of descent, if the intermediate heir had no actual seisin, there might have been good reason to contend, that as he had no descendible estate he should not be entitled to intermediate profits; but this can have no bearing on a case under the new law, where actual seisin of the ancestor is not required, and where actual seisin, if material to the question, had been confessedly gained by the intermediate heir. It is certainly introducing an anomaly to hold that the right to the intermediate rents depends on the fact whether the intermediate heir do or do not actually obtain possession of them—on a mere accident.

There is no authority whatever for the proposition that the posthumous heir had any reversion which would entitle him to distrain for the intermediate rents, as the Vice-Chancellor seemed to consider he might; although it seems true that on the birth of a posthumous heir the intermediate heir would lose his right of distress. No authority whatever was adduced to shew that an action for rent might not be maintained by the intermediate heir against the tenant. That the intermediate heir had lost his right of distress was no argument for his also having lost his right of action, the remedies being, as is well known, by no means coextensive. On the whole, this decision appears to me unsupported by authority, analogy, or convenience.

The other case is that of *Davis* v. *Tollemache*, (2 Jur., N. S., part 1, p. 1181). The question was, whether, if a tenant in tail, by a deed disclosing the nature of his estate, assume to convey all his estate and interest by way of mortgage, and covenant for further assurance, he shall be compelled to disentail. The point was decided in the negative.

The case of *Machell* v. *Clarke*, (2 Ld. Raym. 778), which appears to have an important bearing on the question, does not seem to have been cited in the arguments or decision. The effect of the conveyance clearly was to pass a fee to the mortgagee, voidable by the issue in tail; and the effect of barring the entail would not be an enlargement of the estate conveyed, as assumed by the Vice-Chancellor; for I apprehend a defeasible fee is as large in contemplation of law as an absolute one. It was simply impossible for the mortgagor to convey his estate tail to the mortgagee, or for the mortgagor on redemption to take back the estate tail. A disentailing assurance by the mortgagor would seem to come properly within the scope of a covenant for further assurance, as an act to confirm what was previously voidable.

Moreover, it does seem singular that the right of the tenant in tail to acquire an absolute fee by barring his issue and remainders over should not be deemed part of his interest in the lands assured, it being at the same time remembered, that if there be a reasonable doubt as to the extent of the grant or covenant, the grantee or covenantee must have the benefit of it.

I am, Sir,
Your obedient servant,
J. C.

Kidderminster, Worcestershire, victualler, Oct. 29 at half-past 11, Birmingham, aud. ac.—*John Bishop*, Shrewsbury, Shropshire, cabinet maker, Oct. 29 at half-past 11, Birmingham, aud. ac.—*Wm. Marshall* and *Wm. Smith*, Sheffield, edge-tool manufacturers, Oct. 3 at 10, Sheffield, aud. ac.—*John Hanson* and *James Walker*, Sheffield, coach builders, Oct. 3 at 10, Sheffield, aud. ac.—*John Bentley*, *Charles Dear*, and *John J. M. Richardson*, Cheapside, warehousemen, Oct. 15 at 1, London, div. sep. est. of *John Bentley*.—*Wallace Alfred Jones*, Rose-terrace, West Brompton, tea dealer, Oct. 15 at 11, London, div.—*Wm. H. Saunders*, Cardiff, Glamorganshire, wine merchant, Oct. 22 at 11, Bristol, fin. div.—*Henry Clark*, Nuneaton, Warwickshire, ribbon manufacturer, Oct. 23 at half-past 11, Birmingham, div.—*John Allen* and *Jos. Moore*, Birmingham, medalists, Oct. 22 at half-past 11, Birmingham, div.—*J. Parr*, Wolverhampton, Staffordshire, woollendraper, Oct. 5 at half-past 10, Birmingham, div.—*John Hair*, Newcastle-upon-Tyne, shipbroker, Oct. 14 at 11, Newcastle-upon-Tyne, div.—*Samuel Hunter*, Gateshead, and *Nicholas Hunter*, Hartlepool, Durham, anchor manufacturers, Oct. 15 at 12, Newcastle-upon-Tyne, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Wm. Booth, Upper Whitecross-street, St. Luke's, machine sawyer, Oct. 15 at 12, London.—*Wm. James Tayler*, Albion-terrace, De Beauvoir-square, Kingsland, upholsterer, Oct. 15 at 1, London.—*William Lyon*, Guildford, Surrey, butcher, Oct. 13 at 2, London.—*Wallace Alfred Jones*, Rose-terrace, West Brompton, tea dealer, Oct. 15 at 11, London.—*William Davis* and *Wm. Henry Davis*, Haverfordwest, drapers, Oct. 23 at 11, Bristol.—*Thomas Clayton* and *Thomas Sanders*, Liverpool, slaters, Oct. 15 at 11, Liverpool.—*Wm. Middlewood* and *Wm. Anderson*, Manchester, joiners, Oct. 14 at 12, Manchester.—*John Holden*, Belmont, near Bolton-le-Moors, Lancashire, cotton spinner, Oct. 16 at 12, Manchester.—*H. Septimus Wolstencroft*, Middleton, Lancashire, logwood grinder, Oct. 15 at 12, Manchester.

Partnerships Dissolved.

George Mounsey and *Daniel M'Alpin*, Carlisle, attornies, solicitors, and conveyancers.—*John Scholey*, *John Marsden*, and *Philip George Skipworth*, Wakefield, Yorkshire, attornies-at-law, solicitors, and conveyancers.—*William Matthew Armstrong* and *Henry Phillips*, Guildhall-chambers, Basinghall-street, attornies and solicitors.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed Charles Rudsdell Worsley, Gent., of Gainsborough, Lincolnshire, to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, in and for the parts of Lindsey, in the county of Lincoln.

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ISAIAH ROBERSON, Upper Sydenham, Kent, boot maker, Oct. 7 at 12, and Nov. 5 at 2, London: Off. Ass. Johnson; Sols. A. & W. Bristow, Greenwich.—Pet. f. Sept. 24.

THOMAS JAMES DORE, Stour Provost, Dorsetshire, innkeeper, Oct. 7 at 11, and Nov. 5 at 12, London: Off. Ass. Bell; Sols. Sevyer, Shaftesbury; Venning & Co., Tokenhouse-yard.—Pet. f. Sept. 18.

MONTAGUE MOSS, Borough-market, Surrey, fruiterer, Oct. 6 at 2, and Nov. 3 at 12, London: Off. Ass. Edwards; Sol. Gant, 37, Nicholas-lane, King William-street.—Pet. f. Sept. 18.

WILLIAM SAVAGE, Winchester, Southampton, Berlin wool dealer, Oct. 10 at half-past 12, and Nov. 10 at 12, London: Off. Ass. Lee; Sols. Ashurst & Co., 6, Old Jewry.—Pet. f. Sept. 23.

JOHN WOOLLISCROFT, Leek, Staffordshire, corndealer, Oct. 5 and 30 at 10, Birmingham: Off. Ass. Christie; Sols. Southall & Nelson, Birmingham; Richardson & Sadler, Old Jewry-chambers.—Pet. d. Sept. 12.

RICHARD SYDNEY LAMBERT, Bristol, dealer in manure, Oct. 6 and Nov. 3 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan & Girling, Bristol; Ashurst & Co., 6, Old Jewry.—Pet. f. Sept. 22.

EVAN DAVIES, Swansea, Glamorganshire, linendraper, Oct. 6 and Nov. 3 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Girling, Bristol; Sturt & Co., Gresham-street, London.—Pet. f. Sept. 9.

WILLIAM REES, Glastonbury, Somersetshire, bookseller, Oct. 8 and Nov. 2 at 11, Bristol: Off. Ass. Miller; Sols. Bulleid, Glastonbury; Abbott & Lucas, Bristol.—Pet. f. Sept. 24.

THOMAS WRIGHT, Wainfleet, Lincolnshire, wine merchant, Oct. 14 and Nov. 18 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Merrifield, Wainfleet; England & Saxelbye, Kingston-upon-Hull.—Pet. d. Sept. 16.

THOMAS GARNISS, Great Grimsby, Lincolnshire, tailor, Oct. 14 and Nov. 18 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sol. Preston, Kingston-upon-Hull.—Pet. d. Sept. 23.

Meetings.

Thomas Marshall, Hartlepool, Durham, shoemaker, Oct. 8 at 11, Newcastle-upon-Tyne, last ex.; at half-past 11, aud. ac.—*Charles Lewton*, Maesteg, Glamorganshire, publican, Oct. 6 at 11, Bristol, last ex.—*Thomas Cuthbert M'Kay* and *John M'Kay* the younger, Newcastle-upon-Tyne, hosiers, Oct. 7 at 11, Newcastle-upon-Tyne, aud. ac.—*Wm. Johnson*, Whitehaven, Cumberland, currier, Oct. 6 at 12, Newcastle-upon-Tyne, aud. ac.—*Edward Elsam*, Liverpool, merchant, Oct. 8 at 11, Liverpool, aud. ac.; Oct. 15 at 11, div.—*Arthur Greenhill*, Harrow-on-the-Hill, Middlesex, baker, Oct. 19 at 1, London, div.—*Joseph Bruce*, Yarmouth, Isle of Wight, grocer, Oct. 19 at 12, London, div.—*Wm. Joseph White* and *Lacey Bathurst*, Regent-street, Westminster, drapers, Oct. 17 at 10, London, div.—*John Gregory*, High-street, Southwark, Surrey, oilman, Oct. 17 at half-past 10, London, div.—*C. W. Broughton*, Southampton-street, Covent-garden, tailor, Oct. 16 at 11, London, div.—*Robert H. Obbard*, Old-street-road, Shoreditch, lead merchant, Oct. 17 at 11, London, div.—*A. Rust*, Hedge-row, Islington-green, hosier, Oct. 16 at 1, London, div.—*Joseph Piper*, High-street and Spencer-street, Shoreditch, finishing ironmonger, Oct. 16 at 1, London, div.—*John Busher*, New Bond-street, livery-stable keeper, Oct. 16 at half-past 12, London, div.—*John Holden*, Belmont, near Bolton-le-Moors, Lancashire, cotton spinner, Oct. 9 at 12, Manchester, aud. ac.; Oct. 16 at 12, div.—*Wm. Duckworth*, Church, near Accrington, and Lumb-in-Rossendale, Lancashire, cotton manufacturer, Oct. 16 at 12, Manchester, aud. ac.; Oct. 23 at 12, div.—*T. Jones*, Aberavon and Cwmavon, Glamorganshire, general-shop keeper, Oct. 22 at 11, Bristol, div.—*John H. Brown*, Sunderland, rope manufacturer, Oct. 16 at half-past 11, Newcastle-upon-Tyne, div.—*T. Firmston*, Shrewsbury, Shropshire, builder, Oct. 23 at half-past 11, Birmingham, div.—*Samuel Stainton*, Birmingham, licensed victualler, Oct. 19 at 10, Birmingham, div.—*Alfred Hinton*, Birmingham, druggist, Oct. 19 at 10, Birmingham, div.—*Wm. Comeley* the elder, Tipton, Staffordshire, brickmaker, Oct. 19 at 10, Birmingham, div.

Certificates.

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John Dickson, Bread-street, City, warehouseman, Oct. 19 at 2, London.—*Thomas Hawkes*, Dudley, Worcestershire, glass manufacturer, Oct. 19 at 1, London.—*Henry Bunny*, Newbury, Berkshire, brickmaker, Oct. 17 at half-past 12, London.—*John Bengard*, Shoreham, Sussex, brewer, Oct. 17 at 12, London.—*Wm. F. Wallington*, Oxford, tailor, Oct. 17 at half-past 12, London.—*Charles Duvall*, Crosby-row, Walworth-road, Surrey, and Queen's-buildings, Knightsbridge, Middlesex, provision merchant, Oct. 16 at half-past 1, London.—*John Sexby*, Vauxhall-walk, Lambeth, Surrey, builder, Oct. 16 at 2, London.—*Robert H. Obbard*, Old-street-road, Shoreditch, lead merchant, Oct. 17 at 11, London.—*James Edgar*, Bury St. Edmunds, Suffolk, draper, Oct. 16 at 12, London.—*Samuel Molyneux*, Oliver's-yard, City-road, St. Luke's, mill sawyer, Oct. 16 at 2, London.—*George Wylie Daniel*, Woodford, Essex, hotel keeper, Oct. 16 at half-past 12, London.—*Joseph Piper*, High-street and Spencer-street, Shoreditch, furnishing ironmonger, Oct. 16 at 1, London.—*John Busher*, New Bond-street, livery-stable keeper, Oct. 16 at half-past 12, London.—*William Blackman*, Northfleet, Kent, licensed victualler, Oct. 16 at half-past 1, London.—*Alfred Rust*, Hedge-row, Islington-green, hosier, Oct. 16 at 1, London.—*William Henry Lidbetter*, Tunbridge Wells, Kent, corn dealer, Oct. 16 at half-past 1, London.—*Thomas Fleming*, Liverpool, merchant, Oct. 16 at 11, Liverpool.—*William W. Jones*, Portmadoc, Carnarvonshire, ship builder, Oct. 16 at 11, Liverpool.—*Hugh Mackay*, Liverpool, shipwright, Oct. 19 at 11, Liverpool.—*Henry Holland*, Leyland, Lancashire, builder, Oct. 16 at 12, Manchester.

To be granted, unless an Appeal be duly entered.

William Stapleton, Paddington, contractor.—*Frank Rennison*, Milk-street, Cheapside, merchant.—*Charles Cullen Mercer*, Margate, Kent, builder.—*Henry Simpson*, Ipswich, Suffolk, butcher.—*Thomas Jones*, Aberavon and Cwmavon, Glamorganshire, general-shop keeper.—*William Ebenezer Pincott*, Cardiff, Glamorganshire, wholesale tea dealer.—*Joseph Hill*, Chester, cordwainer.

Petition Annulled.

Samuel Blackburn and *Edwin Blackburn*, Little Gomersal, Yorkshire, cloth manufacturers.

Scotch Sequestrations.

Alexander Mill, Glasgow, merchant.—*John Simpson*, Anderston of Glasgow, slater.

Tuesday, *Sept.* 29.

Bankrupts.

JAMES FRANCIS HOOKHAM, Eyre-street-hill, Leather-lane, Holborn, licensed victualler, Oct. 8 at 11, and Nov. 12 at 12, London: Off. Ass. Bell; Sol. Sidney, 50A, Lincoln's-inn-fields.—Pet. f. Sept. 25.

RICHARD BATLEY, Gifford-street, Caledonian-road, Middlesex, timber merchant, Oct. 9 at half-past 11, and Nov. 12 at 1, London: Off. Ass. Bell; Sols. Parker & Co., 17, Bedford-row.—Pet. f. Sept. 23.

WILLIAM FREEMAN, Fleet-street, City, bookseller, Oct. 9 at 1, and Nov. 12 at half-past 1, London: Off. Ass. Johnson; Sol. Spicer, Staple-inn.—Pet. f. Sept. 28.

EMANUEL PASSMORE, King-street, West Smithfield, City, licensed victualler, Oct. 12 and Nov. 10 at 2, London: Off. Ass. Edwards; Sol. Marshall, 30, Redcross-square, Cripplegate.—Pet. f. Sept. 26.

WILLIAM GLOVER, Liverpool, innkeeper, Oct. 12 and Nov. 2 at 11, Liverpool: Off. Ass. Morgan; Sols. Evans & Son, Liverpool.—Sept. f. Sept. 25.

JOSEPH HARRISON, Epsom, Surrey, corn chandler, Oct. 10 and Nov. 10 at 12, London: Off. Ass. Edwards; Sol. Jaquet, New-inn, London.—Pet. f. Sept. 25.

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Court of Exchequer.

By W. M. Best, Barrister at Law.

Ex parte Baker.—(*Master and servant*—4 *Geo.* 4, *c.* 34—6 *Geo.* 3, *c.* 25—*Statutes—Justice of the peace—Jurisdiction—Conviction—Affidavits—Action*) . 937

THE JURIST.

LONDON, OCTOBER 3, 1857.

A member of a firm cannot defend himself against the claims of creditors by shewing that he was induced to enter into the partnership by the fraud of others; neither can a shareholder in a company relieve himself from responsibility for its debts by shewing that he became a shareholder by reason of fraudulent misrepresentations made to him by the company or its directors. (*Henderson* v. *The Royal British Bank*, 3 Jur., N. S., part 1, p. 111; 26 L. J., Q. B., 112). Of course the case would be different as between the shareholders and the directors, who had actually perpetrated the fraud; they could not enforce any contract made under such circumstances. Some doubt, however, has been felt and expressed from time to time as to the effect of fraud by directors upon the relation of a shareholder to his co-shareholders, who were not actual parties to the deceit. The question then would seem to be reduced to one of agency. If the directors could be considered the agents of the company for this purpose, their representations would be those of the company, and, in the absence of condonation, would afford an answer to any claim by them for contribution or otherwise. This point may now be said to have been determined by several recent decisions, ending with *Brockwell's case*, (3 Jur., N. S., part 1, p. 879). It was sought to make Mr. Brockwell liable as a contributory to the debts of the Royal British Bank: the question, therefore, of shareholders' liability arose, not as to third parties, but inter se. Mr. Brockwell alleged, in answer, that he became a shareholder under the following circumstances:—In 1852 he opened an account with the bank, and in February, 1855, relying upon the truth of statements put forth by the directors in a report to the company, which was adopted by the company at a general meeting, and acted upon in the payment of dividends, he applied for and obtained three new shares, which were issued under a supplemental charter, and afterwards received two dividends upon such shares. He was held not to be liable. In the course of delivering his judgment, Sir R. T. Kindersley, V. C., made the following observations:—"The renewed charter was obtained by false representations. The whole existence of the company was one continued fraud. . . . Then comes the question whether these are the representations of the company, or merely made to the company, for which the company is not responsible. The report was received, and immediately a dividend was paid upon these representations. That report was, as well as all the reports were, I will not say circulated to the public by the express direction of the company, but certainly with the sanction of the body of directors these reports were published in newspapers, and made known to the public. Now, I apprehend the clear rule deduced from all the cases to be, that if a company makes representations which are false, a person who has been induced to take shares thereby is not bound, because the representations are false; but if the representations are made by a person who is not an agent of the company, he is still bound to the shareholders, though he has a remedy against the person who has deceived him. (*Bell's case*, 22 Beav. 35; 2 Jur., N. S., part 1, p. 844; *Holt's case*, 22 Beav. 48). . . . Now, I think this question, as to the effect of these reports, is settled by the decisions of the House of Lords, or rather by those of Lord Cottenham and Lord St. Leonards. (*The National Exchange Company of Glasgow* v. *Drew*, 2 Macq. 125). There the representation made was in the shape of a report by the body of directors; and if it goes into circulation, as of course it does, it must be considered as a representation of the company. It was very ingeniously argued in that case that the shareholders were not the deceiving parties, but were deceived. But the answer to that is, that it is a body which by its nature can only act by its directors; that it is the duty of directors to make reports, and to make true reports; and when these reports are received, adopted, and acted upon, they become the reports of the company as a body. . . . It was said in the course of the argument before me, that this may be true as to a report published to the world at large, but here the directors added to the report that it was for the use of the proprietors only, which shews that it was a mere private and confidential communication to the shareholders only. Now, for the directors to be allowed to resort to such a flimsy contrivance, when this was a report made for the information not only of the shareholders, but of the public at large, would be to act contrary to the plainest dictates of common sense. . . . . It was next said, that a person induced by fraud to enter into a contract has no right to repudiate without reinstating all parties. But whom is he to reinstate? He must give back the dividends he has received. . . . . The next objection is, that other persons may have taken shares on the faith and confidence of finding Mr. Brockwell's name among the shareholders, and assuming him to be a person of good sense and stability. Now, in the first place, 'may have' is very different from 'have,' and I should say, 'Prove your proposition, and I will consider the consequences.' But why should he pay the debts due by the body at large because he has misled others? There is no foundation for any such objection. Next, if the original shareholders took original shares upon the faith of the same report which deceived Mr. Brockwell, the inference is that he must contribute with the others; but that assumes that they must contribute, though these eighty other persons have just as much right to say they are not shareholders. I do not resort to the principle laid down by the Master of the Rolls in Ireland, (*Ginger's case*, 5 Ir. Ch. & Com. Law Rep. 174), though it is a very sound principle. The next argument is, that after Mr. Brockwell became a shareholder, in the following June another report was made, similar in all respects, and containing all the ingredients of fraud and misrepresentation. That is the report of the company of which he is a member; therefore he becomes one of the persons who made the misrepresentation. This is very ingenious, but when examined it comes to nothing. First of all, it assumes the whole proposition in question—it assumes that he must be considered a shareholder; but if he was deceived, he is no shareholder if he repudiates; and if he repudiates, he repudiates ab initio, and was no shareholder at all. . . . . *Dodgson's case* (3 De G. & S. 85) has been regarded as contradictory, but it is not so. There is an expression of the Vice-Chancellor, that the directors were not agents to commit fraud; but there is nothing to lead us to conjecture what were the representations made—nothing to lead us to think that representations made by the directors, and accepted by the company, are not representations of the company. In the other cases the representations made were by officers of the company, not by the company, or by agents authorised by the company."

◆

Compulsory arbitration under the Common-law Procedure Act, 1854, is so different in its origin from arbitration by mutual consent, that we may well expect to find dissimilar effects flowing from it, and dissimilar rules adopted with reference to it. In the one case the Court refers the cause, substituting another tribunal for itself, and compelling the parties to submit to it; in the other the parties agree to submit their differences to the judgment of a third person, whom they select for that purpose, preferring the domestic to the public forum. It has been long recognised, as a consequence from mutual submission to arbitration, that the Courts will not review the judgment of the arbitrator whom the parties have selected in preference to the Courts to decide between them; no erroneous decision of such arbitrator, either upon the facts or the law of the case, is ground for setting aside his award. A question has been raised, arguendo, whether this rule is applicable to awards made under compulsory reference, or whether they should not be treated as decisions of the Court liable to review. In *Brown* v. *Hellaby* (26 L. J., Ex., 217) a motion was made to set aside such an award for an error of the arbitrator, and it was urged by counsel that the old rule, that the parties to a reference must abide by the judgment of the arbitrator, rested on their own appointment of him, and cessante ratione cessat lex; that the same principle could not apply to cases of compulsory reference, where the Court appointed the arbitrator; that such a reference was substituted for trial by jury, and was a species of trial; and that the 7th section of the statute, that the proceedings on a reference under the act, as to setting aside the award, &c., should be the same as under any reference before the act, was applicable only to the mode of procedure. The Court, however, declined to interfere, on account of the smallness of the sum disputed, (2*l*. 2*s*.), which would equally have prevented them from disturbing the verdict of a jury, and abstained from expressing any opinion upon the important point thus raised by counsel. On another occasion, however, a distinction of some moment between the two kinds of references was recognised and acted upon. Thus a bill for discovery will lie in the case of a compulsory reference. (*The British Shipping Company* v. *Somes*, 3 Jur., N. S., part 1, p. 883). Sir W. P. Wood, V. C., in delivering judgment on demurrer to the bill, said—"The law before 1854, with reference to proceedings before an arbitrator selected by the parties, has no substantial bearing on these cases of compulsory arbitration. Arbitration of this sort must be looked at simply as a mode which the Legislature has thought fit to point out for bringing an action to a conclusion. It does not at all make them obvious to the derogatory remarks of Lord Eldon in *Street* v. *Rigby*, (6 Ves. 821), for the foundation of Lord Eldon's remark was, 'if the parties take relief from a domestic forum, they shall not be allowed to come here for discovery merely.' The reason of that quite ceases to apply when the plaintiff, going to a court of common law, is compelled by the judge of that court to have recourse, not to a private forum, not to friends of their own whom the parties may select, but to a tribunal which the Legislature has thought fit to provide in certain cases for the determination of these cases. The arbitrator represents the delegated authority of the Court of Queen's Bench, or other high Court of common law which has appointed him and deputed its functions to him. The Legislature has said that that high Court may in such cases depute a part of its business; the deputed Court continues a part of the original high Court."

◆

The Railway and Canal Traffic Act, 1854, (17 & 18 Vict. c. 31), has given rise to several decisions, of which we propose to place a summary before our readers. The object of this statute, as is well known, was to vest in the Court of Common Pleas a power of controlling railway and canal companies, so as to prevent them from inflicting injury upon the public by partiality, undue restriction, or any act opposed to public interests. In the words of Jervis, C. J., it was to place the whole railway system under the control of the Court. (See *Simons* v. *The Great Western Railway Company*, 18 C. B. 805; 26 L. J., C. P., 25). Among the questions which have been decided is one which had been much vexed before magistrates, namely, whether railway companies have a right to exclude a public vehicle from their station, when they admit others within it of a similar class? It had been decided that an action could not be maintained for such refusal; (*Barker* v. *The Midland Railway Company*, 18 C. B. 46); but the application now was, under the above statute, for an injunction to compel the company to admit the carriage of the applicant within the yard of their station. The rule was moved against the London and South-western Railway Company at the suit of the owner of an omnibus, which ran with passengers and luggage several times daily from Twickenham to meet the trains at the Kingston station. It was the only public conveyance between those places. After it had been running for some time admittance to the yard was refused, which occasioned great inconvenience to passengers, who were in consequence obliged to get out and carry their own luggage a distance of seventy-five feet from the gates to the station. There was plenty of room for the omnibus in the yard, which was used by the public generally for the purpose of coming to or going from the station, either on foot or in carriages, and a public coach and omnibus were admitted daily. No special circumstances being shewn to justify the exclusion, the Court made the rule absolute, enjoining the company to admit the omnibus into the yard at all reasonable times for the purpose of traffic upon and from the railway, and in the same manner and to the same extent as other vehicles of a similar description were admitted for that purpose. (*In re Marriott* v. *The London and South-western Railway Company*, 3 Jur., N. S., part 1, p. 493; 26 L. J., C. P., 154). The grounds of this decision were, that the conduct of the company caused an unreasonable inconvenience to the public, and gave an undue preference and advantage to the other public vehicles; but the learned judges guarded themselves from laying down as a general rule, that a railway company has no right, under any circumstances—e. g. want of sufficient space—to limit the admittance of public vehicles within the area of their stations.

The Court has refused to interfere under the statute because a railway company charged higher fares on one of their branch lines than they charged for equal distances on another; or because they issued third-class return tickets on the one, and not on the other. Nor will it interfere with arrangements respecting the number of trains that stop, or the times at which they stop, at any particular station, unless it is distinctly shewn that such arrangements do not sufficiently provide for the accommodation of the public; and where the company issued third-class tickets to stations a certain distance down the line, the Court refused to enjoin them to issue such tickets to stations beyond that distance. (*In re The Caterham Railway Company* v. *The London and Birmingham Railway Company*, 26 L. J., C. P., 161. See also *In re Barrett* v. *The Great Northern Railway Company*, Id. 83).

If there are two competing companies having lines from A. to B., and one of them has a continuation from B. to C., and the company having such continuation arrange the departures from B. so as to interfere seriously with the other line, and thereby put the public to inconvenience, and force the traffic to B. over a greater extent of line at a sacrifice of time or cost, the Court will, it seems, interfere. (Dictum per Cockburn, C. J., in *Re Barrett*, supra).

A covered station is a reasonable accommodation which a railway company is bound to provide for the public. (*In re The Caterham Railway Company*, supra).

A company is justified in carrying goods for one person at a less rate than that at which they carry the same description of goods for another, if there be circumstances which render the cost to the company of carrying for the former less than the cost of carrying for the latter. (*In re Oxlade* v. *The North-eastern Railway Company*, 3 Jur., N. S., part 1, p. 637; 26 L. J., C. P., 129).

Where, from a desire to introduce the northern coke into Staffordshire, a company made special agreements with different merchants for the carriage of coal and coke at a rate lower than the ordinary charge, it was held not to be a legitimate ground for making such agreements, and that it was giving an undue preference to that traffic. (Ib.)

The Court refused to require a company to provide trucks for the carriage of coal for a merchant who refused to pay demurrage for them at the same rate as was charged to all other merchants under similar circumstances. (Ib.)

In determining the question of undue preference the Court will consider the fair interests of the railway itself; e. g. whether the company may not carry larger quantities, or for longer distances, at lower rates per ton per mile, than smaller quantities, or for shorter distances, so as to derive equal profits to themselves. Where, however, it was clear that they charged one person less than another in order to enable the former to compete with the other, an injunction was granted against the undue preference, although the distances and quantities were unequal; but it was made a part of the terms of the injunction that due regard was to be had to the circumstances, if any, which rendered the cost to the company less in carrying for the one party than for the other. (*In re Ransome* v. *The Eastern Counties Railway Company*, 3 Jur., N. S., part 1, p. 217; 26 L. J., C. P., 91).

With regard to the reasonableness of conditions imposed by railway companies, it should be observed, that by the 7th section of the statute notice given by the company will not protect them, but they may make just and reasonable conditions as to the receiving, forwarding, or delivering goods or animals. It has been held a reasonable condition that they would not be responsible for damage to horses or cattle conveyed by the railway, (*Wise* v. *The Great Western Railway Company*, 1 H. & Norm. 63; *Pardington* v. *The South-western Railway Company*, Id. 392; 2 Jur., N. S., part 1, p. 1210), or for loss or damage, from any cause whatsoever, to goods conveyed at a special or mileage rate, (*Simons* v. *The Great Western Railway Company*, 18 C. B. 805); and that they would not be liable for loss of market or other delay arising from detention of cheese, (*White* v. *The Great Western Railway Company*, 26 L. J., C. P., 158); and, as it seems, that no claim for damage would be allowed unless made within three days after the delivery of the goods, nor for loss unless made within three days of the time that they should have been delivered, (*Simons* v. *The Great Western Railway Company*, supra); but a condition, that they would not be liable for the loss, detention, or damage of any package insufficiently packed, was held unreasonable, for it was quite immaterial whether the goods were properly packed or not if the whole package was lost. (Ib.; see also *Dunham* v. *The London and North-western Railway Company*, 18 C. B. 826).

The following points of practice have been decided under the act:—

If the rule call on the company to shew cause why they should not act in compliance with the Railway Traffic Act, it is too vague. (*In re Marriott*, supra).

If moved without costs, it will be made absolute without costs, (Ib.); otherwise with costs. (*In re Ransome*, supra).

If, however, the rule asks for more than the applicant is entitled to, he will have to pay his own costs, although it may be made absolute in part. (*In re Oxlade*, supra).

Where moved on wholly insufficient grounds, it will be discharged, with costs. (*In re Barrett*, supra).

Correspondence.

IS A CONDITION OF RE-ENTRY ON AN ASSIGNMENT WITHOUT LICENSE DESTROYED BY AN ACCEPTANCE OF RENT AFTER AN UNAUTHORISED ASSIGNMENT?

TO THE EDITOR OF "THE JURIST."

Sir,—This is a point of considerable importance, and one very likely to occur in conveyancing practice; it is also one on which the prevailing opinion—namely, that such an acceptance of rent would destroy the condition[*]—seems open to very great doubt.

This opinion appears to have arisen from an extra-judicial suggestion of Sir James Mansfield, C. J., in *Lloyd* v. *Crispe*, (5 Taunt. 249). The case had come before him at Nisi Prius, when the plaintiff was nonsuited. An application for a rule absolute for a new trial having been granted on the ground of misdirection, the Chief Justice suggested to the plaintiff's counsel that the new trial would probably be of no avail, by reason of a condition of re-entry on an assignment without license having been destroyed by the lessor having accepted rent subsequently.

In 1 Wms. Saund. 288 b, note (*d*), by Patteson and Williams, JJ., the statement of *Lloyd* v. *Crispe* would lead one to infer that the opinion above alluded to was the actual decision in the case. It is as follows:—"When the proviso contains an exception of assignment by will, the executors or legatee cannot therefore assign without license; but when they had done so, and the lessor had accepted rent of their assignee, the condition was held to be waived, and that the assignee might assign without license." In the notes to *Dumpor's case* (1 Smith's L. C. 33) occurs the following passage, which has been passed over without comment by the very learned editors, Willes, J., and Mr. Keating:—"There is some distinction in respect of *waiver* between a condition against underletting and one against assignment; for in the former case, if the lessee underlet, and the lessor accept subsequently accruing rent, so as to waive the forfeiture, still if the lessee, after the expiration of that term, make another underlease, the lessor may re-enter; (*Doe* v. *Bliss*, 4 Taunt. 735); but if the lessor were, by acceptance of rent, to waive the forfeiture incurred by the lessee's assignment, there would be an end of the condition altogether, exactly as there would be if he had licensed it." (*Lloyd* v. *Crispe*, 5 Taunt. 249; 1 Wms. Saund. 288 b, note (*d*); and see 5 B. & Ad. 781). It has been seen that *Lloyd* v. *Crispe* cannot be considered an authority on the point in question, and the note in Wms. Saund. rests on *Lloyd* v. *Crispe*. The remarks of Patteson, J., (5 B. & Ad. 781), do point to some distinction between assignment and underletting, in respect of waiver; but it is observable that he was addressing himself to the difference between *Dumpor's case* (4 Rep. 119 b.) and the case he was then called on to decide, and that he spoke of *Dumpor's case* as one where the covenant had been waived. On looking at the report by Lord Coke this last remark seems hardly correct, for it is said that "the lessors, by their deed, anno 13 Eliz., licensed the lessee to alien;" from which it is clear that *Dumpor's case* was not in any sense one of waiver, but one of express license.

It is apprehended that the true distinction in every case is, whether there has been a dispensation with the condition, or a waiver of the breach.

On what sound principle can a distinction be taken between the effect of receipt of rent or other waiver on a condition restraining from underletting and one restraining from assignment? Why is receipt of rent after an unauthorised assignment to be construed as license, but after an unauthorised underletting as waiver?

Even supposing (what is very unusual) that the covenant should be to the effect that the lessee should not assign without license, and the restriction was not by the form of the covenant extended to his assigns, so that there could be but one breach of the covenant, still there would be no more room to contend that on the breach of such a covenant there could be no waiver of the breach as distinguished from release of the condition, than there would be to contend that on the breach of a covenant to do any other single act, such breach could not be waived simply, but that any dependent condition must be deemed to be released.

It does seem that the doctrine of tolerance being tantamount to license in the case of assignment is open to the objection to a similar doctrine in a case of underletting stated by Gibbs, J., in *Doe* v. *Bliss*.

The Courts at the present day are certainly disinclined to extend the doctrine of *Dumpor's case*, and there is no doubt that where they could possibly do so they would construe an act to be one of waiver rather than of license.

J. C.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed Walters Freak Pratt, Gent., of Wootton Bassett, Wiltshire, to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, in and for the county of Wilts.

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[*] Our impression is, that the prevailing opinion is the other way.—Ed.

FREDERICK ROBERT' PAUL BOOCKE, Newman-street, Oxford-street, goldsmith, Oct. 12 and Nov. 10 at 2, London: Off. Ass. Lee; Sol. Chidley, 10, Basinghall-street.—Pet. f. Sept 26.

CHARLES HALL, Albemarle-street, Piccadilly, poulterer, Oct. 13 at 2, and Nov. 10 at half-past 2, London: Off. Ass. Edwards; Sol. King, 35, King-street, Cheapside.—Pet. f. Sept. 28.

BENJAMIN WILLMOTT GABRIEL, Stockport, Cheshire, cotton spinner, Oct. 13 and Nov. 3 at 12, Manchester: Off. Ass. Fraser; Sols. Cooper & Sons, Manchester.—Pet. f. June 10.

JOHN HALL, Dudley and Oldswinford, Worcestershire, mill maker, (trading under the style or firm of Robert Hall & Son), Oct. 15 and 30 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Coldicott & Canning, Dudley; Smith, Birmingham.—Pet. d. Sept. 4.

Meetings.

Henry Apthorp Bentham, Sunderland, Durham, shipowner, Oct. 13 at half-past 11, Newcastle-upon-Tyne, last ex.—*Dixon Sharper*, West Hartlepool, Durham, ship chandler, Oct. 13 at 12, Newcastle-upon-Tyne, last ex.—*Samuel Bayley*, Wednesbury, Staffordshire, grazier, Oct. 12 at 10, Birmingham, aud. ac.—*Moritz Gumpel Cohn*, Great Bridge, Staffordshire, pawnbroker, Oct. 19 at 10, Birmingham, aud. ac.—*Thomas Barnett*, Ironbridge, Shropshire, butcher, Oct. 12 at 10, Birmingham, aud. ac.—*George Milnes Hirst*, *Geo. Hirst*, and *Wm. Frederick Wilman*, Batley, Yorkshire, manufacturers, Oct. 22 at 11, Leeds, aud. ac. joint est., and aud. ac. sep. ests.; Oct. 23 at 11, div. joint est., and div. sep. ests. of *G. M. Hirst* and *Wm. F. Wilman*.—*Joseph Gomersall*, Cleckheaton, Yorkshire, corn miller, Oct. 15 at 11, Leeds, aud. ac.—*Joseph Smithson*, Mirfield, Yorkshire, corn miller, Oct. 15 at 11, Leeds, aud. ac.—*Thomas Wade*, Newlay, near Leeds, stone merchant, Oct. 15 at 11, Leeds, aud. ac.—*Jas. Gill*, Calvert's-buildings, High-street, Southwark, hop factor, Oct. 22 at 11, London, div.—*Octavius King* and *Alfred King*, Dullingham, near Newmarket, corn merchants, Oct. 26 at 12, London, div.—*Jacob Wm. Henry Schafer* and *Wm. Henry Brown*, Fenchurch-street, City, merchants, Oct. 20 at 2, London, div. sep. est. of *J. W. H. Schafer*.—*William Ogston Young*, Sun-court, Cornhill, London, Manchester, and Liverpool, insurance broker, Oct. 20 at 1, London, div.—*George Durrant Starling*, Ormesby, Norfolk, grocer, Oct. 22 at 2, London, div.—*John Shoolbred*, Jermyn-street, tailor, Oct. 22 at 1, London, div.—*Edward Ellis*, Ludgate-hill, wine merchant, Oct. 20 at 12, London, div.—*William White*, Shadwell, miller, Oct. 22 at 12, London, div.—*Wm. Hawke*, Great Queen-street, Lincoln's-inn-fields, builder, Oct. 22 at 12, London, div.—*E. Fitcomb*, Clewer, Berkshire, builder, Oct. 22 at 11, London, div.—*J. Barton*, Manchester, silk manufacturer, Oct. 9 at 12, Manchester, aud. ac.; Oct 22 at 12, div.—*J. Walker*, Blackburn, Lancashire, commission agent, Oct. 15 at 12, Manchester, aud. ac.; Oct. 22 at 12, div.—*W. Peach*, Derby, coal merchant, Oct. 20 at half-past 10, Nottingham, div.—*John Richardson* the younger, Cockermouth, Cumberland, common brewer, Oct. 20 at 11, Newcastle-upon-Tyne, fin. div.—*John Johnson*, Crook, Durham, contractor, Oct. 21 at 1, Newcastle-upon-Tyne, first and fin. div.—*Benj. Forster*, Newcastle-upon-Tyne and Wallsend, Northumberland, draper, Oct. 21 at half-past 12, Newcastle-upon-Tyne, fin. div.—*Wm. R. Carr* and *Thomas Leidler*, Denton, Northumberland, coalowners, Oct. 20 at 12, Newcastle-upon-Tyne, div.—*Thomas Dillon*, Halifax, boot maker, Oct. 23 at 11, Leeds, div.—*Wm. John Gregory*, Leeds, bedding manufacturer, Oct. 23 at 12, Leeds, div.—*Michael Neville*, Liverpool, brassfounder, Oct. 22 at 11, Liverpool, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

James Jordan the younger, Campden-hill, Kensington, builder, Oct. 22 at 12. London.—*Wm. Clarke*, King's Lynn, Norfolk, dealer in china, Oct. 22 at half-past 11, London.—*George A. Smith*, Peterborough and Warrington, Northamptonshire, tile maker, Oct. 22 at 12, London.—*Wm. Sadgrove* the younger and *Richard Ragg*, Eldon-street, Finsbury, Middlesex, and Dunning's-alley, Bishopsgate-street, London, cabinet makers, Oct. 20 at half-past 1, London.—*Geo. C. Hyde*, South-parade, Chelsea, surgeon, Oct. 22 at 1, London.—*D. Rees*, Romford, Essex, grocer, Oct. 20 at 12, London.—*E. Talbott* and *S. Grice*, Newarn, Lydney, Gloucestershire, ironfounders, Oct. 23 at 11, Bristol.—*John H. Brown*, Sunderland, rope manufacturer, Oct. 21 at 12, Newcastle-upon-Tyne.—*James Lord*, Spotland, Rochdale, Lancashire, cotton spinner, Oct. 22 at 12, Manchester.—*T. B. Marston*, Leicester, dyer, Oct. 27 at half-past 10, Nottingham.—*Thomas Dale*, Leek, Staffordshire, dealer in drainage pipes, Oct. 30 at 10, Birmingham.—*Samuel Murfin*, Litchurch, Derbyshire, innkeeper, Oct. 27 at half-past 10, Nottingham.

To be granted, unless an appeal be duly entered.

Charles Pearson, Park-street, Southampton-street, Camberwell, Surrey, and Lime-street, London, shipowner.—*Fred. Kindred*, Framlingham, Suffolk, miller.—*L. Dalton*, Canal-bridge, Old Kent-road, Surrey, stone merchant.—*Maximilian Low*, Broad-street-buildings, merchant.—*Wm. Ring*, Paddington-street, St. Marylebone, eating-house keeper.

Petitions Annulled.

John E. Boyd, Grosvenor-street West, Pimlico, Middlesex, baker.—*James Gardiner*, Holme, Aldmondbury, Yorkshire, woollen cloth manufacturer.—*Henry Lancaster*, Walsall, Staffordshire, ironmaster.

Partnership Dissolved.

Thomas Ames Hill and *Charles Atkins Collins*, Paulton, Somersetshire, attornies-at-law, solicitors, and conveyancers.

Scotch Sequestrations.

James Elder, Tarbert. Argyleshire, baker.—*Thos. Wilson*, West Port, Dundee, grocer.—*Henry Cowen*, Greengairs, New Monkland, Lanarkshire, flax merchant.—*Herriot, Brothers*, Glasgow, hat merchants.—*Samuel Adams*, Arbuthnott, merchant.—*John Hay*, Perth, grocer.

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NATHAN FARNWORTH, Chorley, Lancashire, chemist, Oct. 16 at 12 and Nov. 10, Manchester: Off. Ass. Pott; Sols. Christian & Jones, Liverpool; Hall, Manchester.—Pet. f. Sept. 26.

Meetings.

Thomas Lumsden, South Shields, Durham, shipbuilder, Oct. 16 at half-past 12, Newcastle-upon-Tyne, pr. d.—*Thos. James Dore*, Stour Provost, Dorsetshire, innkeeper, Oct. 8 (and *not* Oct. 7, as previously advertised) at 11, London, ch. ass.—*Daniel Nazer*, Dover, hatter, Oct. 8 (and *not* Oct. 7, as previously advertised) at 12, London, ch. ass.—*Isaiah Roberson*, Upper Sydenham, Kent, bootmaker, Oct. 8 (and *not* Oct. 7, as previously advertised) at 12, London, ch. ass.—*John Stokes*, St. George-street, St. George-in-the-East, corn chandler, Oct. 8 (and *not* Oct. 7, as previously advertised) at half-past 11, London, last ex.—*John Davis Gotch* and *Thomas Henry Gotch*, Kettering and Rowell, Northamptonshire, and Long-acre, Middlesex, bankers, Oct. 8 (and *not* Oct. 7, as previously advertised) at 1, London, last ex.—*John Swan*, Leadenhall-street, City, merchant, Oct. 8 (and *not* Oct. 7, as previously advertised) at 11, London, last ex.—*Wm. Jopling*, Wolsingham, Durham, woollendraper, Oct. 15 at 11, Newcastle-upon-Tyne, last ex.—*W. Joseph White* and *Lacey Bathurst*, Regent-street, Westminster, drapers, Oct. 15 at half-past 11, London, aud. ac.—*John Busher*, New Bond-street, livery-stable keeper, Oct. 15 at 11, London, aud. ac.—*John Gregory*, High-street, Southwark, oilman, Oct. 15 at 11, London, aud ac.—*Thomas Ryley Ebsworth*, Wapping-wall, Middlesex, and Forest-villa, Forest-hill, Sydenham, Kent, ale merchant, Oct. 15 at 12, London, aud. ac.—*Jos. Piper*, High-street and Spencer-street, Shoreditch, furnishing ironmonger, Oct. 15 at half-past 11, London, aud. ac.—*William James White*, Vauxhall-walk, and Putney, Surrey, and Praed-street, Paddington, and Goswell-street, Middlesex, baker, Oct. 15 at 12, London, aud. ac.—*Charles W. Broughton*, Southampton-street, Covent-garden, tailor, Oct. 15 at 11, London, aud. ac.—*Alfred Rust*, Hedge-row, Islington-green, hosier, Oct. 15 at half-past 11, London, aud. ac.—*James Morton*, Huntingdon, ironmonger, Oct. 15 at 11, London, aud. ac.—*Robert Henry Obbard*, Old-street-road, Shoreditch, lead merchant, Oct. 15 at 11, London, aud. ac.—*John Faith*, Cambridge-road, Mile-end, provision merchant, Oct. 15 at half-past 11, London, aud. ac.; Oct. 23 at 12, div.—*Edward Titcomb*, Clewer, Berkshire, builder, Oct. 15 at 12, London, aud. ac.—*Richard Smith*, Salehurst, near Hurst Green, and Sedlescomb, near Battle, Sussex, butcher, Oct. 15 at 12, London, aud. ac.; Oct. 23 at 11, div.—*George Lewis*, Cwmbach, Aberdare, Glamorganshire, innkeeper, Oct. 22 at 11, Bristol, aud. ac.—*Robert Prudhoe*, Durham, general provision dealer, Oct. 15 at 11, Newcastle-upon-Tyne, aud. ac.—*Samuel Hunter*, Gateshead, and *Nicholas Hunter*, Hartlepool, Durham, anchor manufacturers, Oct. 14 at 12, Newcastle-upon-Tyne, aud. ac.—*F. Boyd*, Tynemouth, Northumberland, grocer, Oct. 15 at 11, Newcastle-upon-Tyne, aud. ac.—*Benj. Forster*, Newcastle-upon-Tyne, and Wallsend, Northumberland, draper, Oct. 16 at 11, Newcastle-upon-Tyne, aud. ac.—*John Richardson* the younger, Cockermouth, Cumberland, common brewer, Oct. 15 at 1, Newcastle-upon-Tyne, aud. ac.—*Michael Neville*, Liverpool, brass founder, Oct. 15 at 11, Liverpool, aud. ac.—*Richard Willey*, Leicester, linendraper, Oct. 13 at half-past 10, Nottingham, aud. ac.; Oct. 24 at half-past 10, div.—*Wm. John Gregory*, Leeds, bedding manufacturer, Oct. 22 at 11, Leeds, aud. ac.—*Richard Lewis*, Wootton-under-Edge, Gloucestershire, cloth manufacturer, Oct. 24 at 11, London, div.—*Richard Stringer*, Harefield, near Uxbridge, draper, Oct. 24 at 12, London, div.—*Eliz. S. Small*, Fonthill place, Clapham-road, Surrey, plumber, Oct. 24 at half-past 11, London, div.—*Wm. Kidston* and *Filmer*

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THE JURIST.

LONDON, OCTOBER 10, 1857.

THE Act for the Registration of Bills of Sale (17 & 18 Vict. c. 36) is of sufficient importance to warrant us in calling attention to the few decisions which have hitherto been given upon its construction and effect. The first and most material point to be borne in mind respecting this statute is, that its provisions apply only to assignments of personalty, or that which is in the nature of personalty. The deeds mentioned in the act relate to assignments of goods and chattels; but, by sect. 7, goods and chattels include fixtures capable of complete transfer by delivery. Therefore, although a mortgage of land, with the machinery thereon, does not require to be registered, notwithstanding that the machinery consists of trade fixtures, (*Mather* v. *Fraser*, 2 Kay & J. 536; 2 Jur., N. S., part 1, p. 900), yet an assignment of trade fixtures alone requires registration. (*Waterfall and Others* v. *Penistone*, 3 Jur., N. S., part 1, p. 15). In the latter case the freehold of a mill had been mortgaged to a Mr. Marsh, and for further security the machinery upon the premises was afterwards assigned to him. By a subsequent deed the freeholder assigned to the defendant, subject to the said mortgage, the equity of redemption of the mill and machinery included in the mortgage; and by a later deed, (the 14th August, 1854), assigned to the defendant, to secure a further advance, other machinery then on the premises, which was not included in the former assignments. He also by the same deed further charged with this last advance the equity of redemption in the premises before mortgaged to the defendant. The machinery assigned by this last deed of August, 1854, was affixed to the premises only for the purposes of trade, and the deed treated it as machinery which the assignor had a right to sell distinct from the land. The defendant afterwards took possession of the machinery; the assignor then became bankrupt, and the deed not having been registered, it was held that it was inoperative as against his assignees. Erle, J., in delivering the judgment of the Court, said—"In *Hellawell* v. *Eastwood*, (6 Exch. 295), the question, whether the trade machinery there described, which was annexed to the soil, was liable to be distrained, was answered in the affirmative, on the ground, that if the purpose of the annexation was not the permanent improvement of the dwelling, but the more complete use temporarily of the machinery, it was a chattel, and that the intention of the party in the annexation was material to be considered for deciding whether it became parcel of the realty. According to that decision, we hold this machinery to have been a personal chattel within the statute, notwithstanding the annexation to the soil. . . . It was further contended that the result of the whole transaction was equivalent to a mortgage of the premises, with the machinery in question thereon, to the defendant, and so the deed was not a bill of sale, according to the decision in *Mather* v. *Fraser*, (supra), in which it was held that a mortgage of land, with the machinery thereon, was not a bill of sale of the machinery within the statute. With that decision we agree, but we think it does not apply to the indenture of the 14th August, 1854, which first created a primary charge on the machinery now in question, distinct from the land, by way of bill of sale, and afterwards created a separate secondary charge on the equity of redemption by another part of the same instrument. It was further suggested that this machinery might have passed to the mortgagee of the freehold as parcel thereof, though annexed after the mortgage; but the tenor of the instrument shews that the parties did not so intend; and trade fixtures, as above described, would not by subsequent annexation become parcel of the freehold, according to *Hellawell* v. *Eastwood*, above cited."

In a late number (ante, p. 373) we considered the case of *Edwards* v. *English*, (26 L. J., Q. B., 193), which decided that a prior bill of sale, invalid for want of registration, cannot be set up against a subsequent valid bill of sale, in an interpleader issue between the assignee under the second deed and the execution creditor. It would appear from that case, as we then observed, that an unregistered bill of sale is void, not only as against the parties expressly named in the statute, but also as against an assignee of the same goods under a subsequent bill of sale.

With regard to the form of the bill of sale and the affidavit, which are to be registered, the object of the statute is to give notice of the position in life of the assignor, and to facilitate inquiries to that end; therefore a misdescription, or absence of true description, in regard to his occupation, is substantial, and invalidates the security. Where the deed purported to be made by one who described himself as "gentleman," of such a house, the furniture in which was assigned, and it appeared that he was a clerk in the Audit-office, it was held that the misdescription vitiated the bill of sale. (*Allen* v. *Thompson*, 1 H. & Norm. 15; 2 Jur., N. S., part 1, p. 451). So, where the affidavit omitted any description of the residence or occupation of the assignor, it was held to make the assignment void, although the bill of sale itself contained a sufficient description. (*Hatton* v. *English*, 26 L. J., Q. B., 161). Where, however, the affidavit purported to be made by a person who was sufficiently described, and he was also attesting witness to the bill of sale, but the affidavit did not contain any further description of the residence or occupation of the attesting witness as such, it was held sufficient. (*Allen* v. *Thompson*, supra).

STAMPS ON COUNTERPARTS AND DUPLICATES OF INSTRUMENTS.

The Commissioners of Inland Revenue have put a construction upon the provision in the stat. 13 & 14 Vict. c. 97, as to the stamping of counterparts of deeds and other instruments, which occasions much inconvenience, and seems to us to be contrary to the express terms as well as the intention of the act. They refuse (except in the case of a lease) to stamp a deed as the counterpart of another deed produced to them duly stamped, unless the counterpart is not only an exact copy of the principal deed down to the concluding words of the testimonium, but is also actually executed by every party who has executed or is named as a party to the principal deed.

The general provision respecting counterparts and duplicates in the stat. 13 & 14 Vict. c. 97, is new. The Stamp Act, 55 Geo. 3, c. 184, contained some special provisions, differently expressed, and applicable to particular instruments only.

Under the head "APPRENTICESHIP AND CLERKSHIP" it was provided, "And when there shall be *duplicates* or *two parts* of any such indenture, &c., each part shall be charged with the duty before mentioned in all cases where the same shall not exceed 35*s*., and where the same shall exceed that sum, only one part shall be charged with the said ad valorem duty, and the other part shall be charged with a duty of 1*l*. 15*s*., . . . and the part bearing the lower duty shall belong to and be kept by the master or mistress, and be received in evidence accordingly." But this did not extend to counterparts or duplicates of articles of clerkship to attornies, &c., which were simply charged with a stamp of 1*l*. 15*s*., there being in the regulations concerning the admission of such clerks as attornies, &c. sufficient provision against evasion of the duty.

Under the title "CONVEYANCE" it was provided, that "when there shall be *duplicates* of any deed or instrument chargeable with the said ad valorem duty exceeding 2*l*., one of them only shall be charged therewith, and the other or others shall be charged with the ordinary duty on deeds or instruments of the same kind, not upon a sale; and on the whole being produced, duly stamped as hereby required, the latter shall also be stamped with a particular stamp for denoting or testifying the payment of the said ad valorem duty." There was a similar provision under the title "MORTGAGE."

Duplicates of deeds of EXCHANGE OF PARTITION were expressly charged with the same duties as the originals.

In the case of a LEASE charged with a duty exceeding 1*l*. the *counterpart* or *duplicate* was charged with a duty of 1*l*. 10*s*., without any provision for affixing a denoting stamp to the duplicate.

All these provisions were virtually repealed by the following general provision in the schedule to the stat. 13 & 14 Vict. c. 97:—

"DUPLICATE *or* COUNTERPART of any deed or instrument of any description whatever, chargeable with any stamp duty or duties either under this schedule or any other act or acts now in force.

"Where such stamp duty or duties chargeable as aforesaid (exclusive of progressive duty) shall not amount to the sum of 5*s*., the same duty or duties as shall be chargeable on the original deed or instrument, including the progressive duty thereon, if any.

"And where the same (exclusive as aforesaid) shall amount to the sum of 5*s*. and upwards.

"And where &c. (progressive duty of 2*s*. 6*d*. per 1080 words).

"Provided always, that in such latter case the duplicate or counterpart shall not be available unless stamped with a particular stamp for denoting or testifying the payment of the full and proper stamp duty on the original deed or instrument, which said particular stamp shall be impressed upon such duplicate or counterpart on the same being produced, together with the original deed or instrument, and on *the whole being duly executed*, and duly stamped in all other respects."

The General Stamp Act, 55 Geo. 3, c. 184, was drawn with consummate foresight and skill, and contained scarcely a superfluous provision, or even word. The recent acts relating to stamps are, in detail and execution, not only much inferior to that act, but are below the average of Government bills of the present day. The proviso which has just been cited is useless and vexatious. The General Stamp Act left it to the option of the parties whether they would have the denoting stamp impressed or not. A duplicate of a deed clearly would not be received in evidence under the lower stamp unless the due stamping of the original was proved, either by producing the original or by the denoting stamp. A counterpart, bearing the counterpart stamp, might or might not be received in evidence without such proof, according to the nature of the case. A counterpart of articles of apprenticeship, coming from the proper custody, might safely be admitted to be a counterpart. A counterpart of a lease, not being executed by the lessor, can only be a counterpart. A counterpart of any other instrument might or might not bear intrinsic evidence of the fact, according to its nature; and in the absence of such intrinsic evidence, the denoting stamp, or other proof of the due stamping of the original, would be necessary.

These distinctions were noticed by the judges in the case of *Doe* d. *Wright* v. *Smith*, (8 Ad. & El. 255), where the lessor of the plaintiff had given the defendant notice that he might inspect, and would be required to admit, the "counterpart of a lease from E. T. to the defendant, dated the 26th December, 1829." A judge's order to admit the document was taken by consent.

At the trial, an instrument, bearing the duplicate or counterpart stamp, answering to the description in the notice to admit in all respects, except that it was executed by the lessor, was produced, and objected to by the defendant on the ground that it appeared to be a lease, and was insufficiently stamped as a lease, and there was no proof of the existence of an original lease duly stamped. The objection was overruled on the ground that the defendant, having had the opportunity of inspecting the document, and having admitted it as a counterpart, could not now object that it was a duplicate. Littledale, J., said, "This is not a counterpart, because it bears the seal of the lessor. A counterpart is properly executed by the grantee only. If the instrument is executed by both parties, it is either the only document that exists or a duplicate; but to use it as a duplicate you must shew that there was an original properly stamped. This at least would have been the course of observation if no admission had been made."

As might have been expected, the inconvenience of the new regulation was soon found to be intolerable in the class of cases which most frequently came under its operation, and a special provision was made in favour of counterparts of leases by the 12th section of the stat. 16 & 17 Vict. c. 59, which provides, that, "notwithstanding anything contained in the said act, the counterpart of any lease of lands, tenements, or hereditaments, being duly stamped with the said stamp duty of 5s., or any higher duty, (exclusive of progressive duty), and not being executed or signed by or on the behalf of any lessor or grantor, shall be available as a counterpart, without being stamped with a particular stamp for denoting or testifying the payment of the stamp duty chargeable on the original lease."

Duplicates of every kind, and counterparts of all instruments liable to stamp duty, except leases, still require the denoting stamp, and *that* the officers at Somerset House refuse to impress on any *counterpart*, stating that the word "counterpart" in the schedule to the 13 & 14 Vict. c. 97, title "DUPLICATE *or* COUNTERPART," means "duplicate;" although their legal adviser, Mr. Tilsley, seems to be aware that it has a different meaning, for in the supplement to his able treatise on the Stamp Laws he observes that the propriety of the provision as to the denoting stamp is obvious, "more particularly in the case of *duplicates*." The construction adopted by the Commissioners of Inland Revenue is founded, we are told, on the requisition that both instruments shall be produced "duly executed;" but we cannot understand how this helps them. An instrument is "duly executed" when it is executed by the person intended to execute it; and the condition was imposed probably with the design to prevent fraud which might be committed by procuring a mere ingrossment to be stamped on payment of the lower duty, and afterwards adding fresh matter to it before execution. This is satisfied by having the deed executed by a single party; and this is all the protection that can be required, and, indeed, all that even the present practice at Somerset House can secure; for under the present practice, when parties wish to have a set of deeds stamped as original and counterparts, without each being executed by all the parties, all that is necessary is to describe the parties after this fashion—"This indenture, made &c. between A. B. of the one part, and the several other persons whose names and seals are hereunto subscribed and set of the other part;" and then, having procured all the parts to be executed by A. B. and C. D., and by them only, present them for stamping as "original and duplicates," which, we presume, could not be refused. After this each of the respective parts may be "duly executed" by the persons only who are intended to execute it.

It is perfectly clear, however, that the authorities at Somerset House have put a wrong construction on the act, and it is time that they should be set right by an appeal to the Court of Exchequer. The point is of considerable importance, because it is often found convenient, when a deed has to be executed by many persons who reside in different parts of the country or abroad, to send to each party by post a counterpart for execution by him only, which, when returned so executed, ought, on production of the original duly stamped, to be stamped as a counterpart.

Since the above observations were in type we have been informed that in the case which suggested them the Commissioners of Inland Revenue have given way. The circumstances, which seem to involve the concession of the whole principle contended for, were these:—A deed of arrangement, under the "six-sevenths" clause of the Bankrupt-law Consolidation Act, between a firm in London and its creditors, many of whom were foreigners scattered over the continent, was prepared, and as it was impossible to send the deed on its travels, so as to be executed by the requisite number of creditors in time, it was arranged, in order to avoid the uncertainty attending powers of attorney, and the heavy expense in stamps, (1*l.* 10*s.* for each creditor), that a short deed of accession to the principal deed should be prepared, lithographed, and sent by post in duplicate to the several creditors, with information as to the contents of the principal deed, and instructions to execute and return the duplicate deed of accession. The duplicates were executed accordingly, but when they were taken to the Stamp Office, with a request to stamp one of them as a principal and the others as duplicates, the answer was returned that it had been repeatedly decided there, that unless all the deeds were each fully executed by all parties, so as to be fac-similes of each other, they must all be stamped as independent deeds. We are glad to hear, however, that, after hearing an argument against their established practice, the authorities consented to affix the duplicate and denoting stamps. We have pleasure in adding that in several other instances which have come to our knowledge the legal advisers of the Commissioners of Inland Revenue have of late shewn a readiness to correct or relax their rules when proved to be erroneous or harsh.

G. S.

BRITISH JURISDICTION IN TURKEY.

BY an Order in Council published in the London Gazette of the 2nd instant, after reciting that by the 6 & 7 Vict. c. 94, her Majesty may exercise any jurisdiction which her Majesty hath within any country or place out of her Majesty's dominions, in the same and as ample a manner as if her Majesty had acquired such power or jurisdiction by the cession or conquest of territory, and that her Majesty hath power and jurisdiction in the dominions of the Sublime Ottoman Porte, it is ordered, (amongst other things)—

1. That the power and jurisdiction hitherto exercised by her Majesty's Consul-General at Constantinople, so far as the same relates to the repression and punishment of crimes and offences committed within the dominions of the Sublime Ottoman Porte, and to the judicial settlement and determination of all manner of differences, contentions, suits, and variances that might or should happen to arise between British subjects, or between British subjects and the subjects of the Sublime Ottoman Porte, or between British subjects and the subjects of any foreign power, shall be vested in an officer who shall represent the Consul-General, and be called "the judge of the Supreme Consular Court of Constantinople," and such officer shall hold, by special commission from her Majesty, the appointment of vice-consul.

* * * * * * * *

4. That the judge of the said Supreme Consular Court at Constantinople, acting in the representative capacity aforesaid, shall have full power and authority to cause to be apprehended and brought before him any British subject charged with having committed any crime or offence within the dominions of the Sublime Ottoman Porte, or within any British ship being within 100 miles of the coast of Turkey, or within any ship or vessel on the high seas within the same limits, not being lawfully entitled to claim the protection of any flag of any state or nation, and having inquired of, tried, and determined according to the practice of English criminal courts, except where such practice is modified or altered by the provisions of this or any future Order, any charge which may be brought before him, save and except such as may be of a capital nature, to sentence the party convicted to transportation for life, or for any less term, or, in lieu thereof, to penal servitude, according to the provisions of the 16 & 17 Vict. c. 99, or to deportation, or to imprisonment, with or without hard labour, for a term not exceeding two years, or to the payment of a fine not exceeding 500*l.* sterling: provided always, that no act shall be deemed or taken to be a crime or offence, rendering the person committing the same liable to punishment under this Order, unless it be such that if done or committed in England the party so doing or committing it would be liable to punishment in England according to English law, or unless it be an act made liable to punishment by some previous Order in Council applicable to the dominions of the Sublime Porte.

5. That if the crime or offence whereof any person, being a British subject, may be accused before such judge, shall appear to be of a capital nature, then, having taken the depositions in writing and on oath, and in such form and with such ceremony as the party deposing may declare to be binding on his conscience, of all such witnesses as may be competent to give evidence as to the guilt or innocence of the party so charged, and having bound over such witnesses, being British subjects, in their own recognisances, to appear and give such evidence when and wherever they may be called upon so to do, it shall be lawful for such judge to send such accused party to England or Malta, or, if an Ionian, to Corfu, there to be tried according to the law and practice of the criminal courts in these countries.

6. That the judge, on any occasion of sending a prisoner to England, Malta, or Corfu, shall observe the provisions of the 6 & 7 Vict. c. 94.

7. That if the crime or offence whereof any person, being a British subject, may be accused before the judge of the Supreme Consular Court shall be above the degree of misdemeanour, then such judge shall summon, by warrant under the seal of the Consular Court, six indifferent British subjects of good repute, residing within the district of the said Court, to serve as jurymen upon the trial of such accused person, in the same way, and subject to the same form, observances, right of challenge, and penalties, so far as circumstances will admit, as persons serving on juries in England; and such judge shall, with the assistance of such jury, proceed to try the accused in the same manner and according to the same forms, as nearly as may be, as is now practised in England upon the trial of parties charged with criminal offences.

8. That it shall be lawful for the judge, if to him it shall seem fit, to cause any person convicted before him of any crime, over and above any fine or imprisonment which may be awarded to such person, to be sent out of the dominions of the Sublime Ottoman Porte, in the manner pointed out by her Majesty by her Order in Council of the 19th June, 1844, notwithstanding the crime laid to the charge of such person may be the first of which he has been convicted before the judge.

9. That the judge shall have power in a civil suit to examine on oath, or in such form and with such ceremony as he may declare to be binding on his conscience, any witness who may appear before him, and shall have power, on the application of any party in the said suit, to issue a compulsory order for the attendance of any person, being a British subject, who may be competent to give evidence in such suit; and any British subject, having been duly served with any such compulsory order, and with a reasonable notice of the day of the hearing of such suit, shall, on his wilful default to appear as a witness at the hearing of such suit, be punished with a fine not exceeding 100*l.* sterling, or with imprisonment for a period not exceeding thirty days, at the discretion of the said judge; and every witness, being a British subject, so examined as aforesaid, in case of wilful or false testimony, may be convicted of and punished for the crime of wilful and corrupt perjury; and the judge shall, when the circumstances of the case appear to justify it, and when he thinks fit, order that the expenses of a witness, on his appearing to give evidence, shall be defrayed either by the party at whose application he shall have been ordered to attend, or by the party against whom such evidence has been given.

(*To be continued*).

COMMON-LAW SITTINGS, IN AND AFTER MICHAELMAS TERM, 1857.

Court of Queen's Bench.

In Term.

MIDDLESEX.	LONDON.
1st sitting .. Tuesday, *Nov.* 3	1st sitting, Wednes., *Nov.* 11
2nd sitting.. Friday...... 13	2nd sitting, Wednesday .. 18
3rd sitting.. Friday 20	
For undefended causes only.	

After Term.

Thursday .... *Nov.* 26	Wednesday .... *Dec.* 9

The Court will sit at ten o'clock every day.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

Court of Common Pleas.

In Term.

MIDDLESEX.	LONDON.
Friday .... *Nov.* 6	Wednesday........ *Nov.* 11
Friday 13	Wednesday 18

After Term.

Thursday.......... *Nov.* 26	Wednesday .... *Dec.* 9

The Court will sit during and after term at ten o'clock.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

Exchequer of Pleas.

In Term.

MIDDLESEX.	LONDON.
1st sitting, Tuesday .. *Nov.* 3	1st sitting, Wednesd., *Nov.* 11
2nd sitting, Friday 13	2nd sitting, Wednesday .. 18
3rd sitting, Friday 20	

After Term.

Thursday .... *Nov.* 26	Wednesday.......... *Dec.* 9

The Court will sit in and after term at ten o'clock.

The Court will sit in Middlesex, at Nisi Prius, in term, by adjournment from day to day, until the causes entered for the respective Middlesex Sittings are disposed of.

The Queen has been pleased to appoint George B. Van Buren, Esq., to be Attorney-General for the Island of Grenada; and Samuel Henry Frederic Abbott, Esq., to be Attorney-General for the Island of Tobago.

Kidston, North-street, Sidney-street, Mile-end, Middlesex, and Liverpool-street, Bishopsgate, London, medical and general fitters, Oct. 24 at 11, London, div.—*Tilden Smith*, *James Hilder*, *George Scrivens*, and *Francis Smith*, Hastings, Sussex, bankers, Oct. 23 at 1, London, div. joint est., and div. sep. est. of *George Scrivens*.—*I. Gunton*, Manea, Isle of Ely, Cambridgeshire, grocer, Oct. 24 at 12, London, div.—*S. Munday*, Gosport, Hampshire, baker, Oct. 24 at 11, London, div.—*J. Figg*, Farnham, Surrey, boot maker, Oct. 24 at half-past 11, London, div.—*E. Watmough*, Manchester, draper, Oct. 23 at 12, Manchester, aud. ac.; Oct. 30 at 12, div.—*George Watmough*, Bolton, Lancashire, and Sheffield, Yorkshire, draper, Oct. 16 at 12, Manchester, aud. ac.; Oct. 23 at 12, div.—*Wm. Heron*, Huddersfield, cloth merchant, Oct. 23 at 11, Leeds, div.—*Knowlton Wilson*, Sheffield, surgeon, Oct. 24 at 10, Sheffield, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Wm. Thomas Searle, Deptford, Kent, builder, Oct. 24 at 11, London.—*Abraham Low*, Lower Homerton, Middlesex, cattle salesman, Oct. 23 at 11, London.—*T. Davies*, Neath, Glamorganshire, contractor, Oct. 23 at 11, Bristol.—*J. Dance* and *Henry Wane*, Fairford, Gloucestershire, grocers, Nov. 9 at 11, Bristol.—*Wm. M'Gill*, Manchester, merchant, Oct. 29 at 1, Manchester.—*John Hutherseal*, Altrincham, Cheshire, chemical manure manufacturer, Oct. 23 at 12, Manchester.—*Wm. Stock*, Newton, near Warrington, Lancashire, glass manufacturer, Oct. 26 at 11, Liverpool.—*Wm. Thos. Metcalfe*, Great Driffield and Bridlington, Yorkshire, draper, Nov. 4 at 12, Kingston-upon-Hull.—*Wm. Winning*, Wirkseworth, Derbyshire, smallware manufacturer, Oct. 27 at half-past 11, Birmingham.

To be granted, unless an Appeal be duly entered.

S. Grice, Newarn, Lydney, Gloucestershire, ironfounder.—*Walter Lodge*, Almondbury, Huddersfield, Yorkshire, cloth manufacturer.—*Henry Fisher*, Nottingham, tailor.

PARTNERSHIPS DISSOLVED.

Eldon Ethelbert Towne and *Frederick Thomas Dubois*, Broad-street-buildings, London, attornies-at-law and solicitors.—*Robert Gatty* and *A. Heward*, Angel-court, Throgmorton-street, London, attornies and solicitors.

TUESDAY, *Oct.* 6.

BANKRUPTS.

FRANCIS BREWER COLEMAN, Queen's-buildings, Brompton, Middlesex, linendraper, Oct. 20 and Nov. 17 at 2, London: Off. Ass. Edwards; Sol. Buchanan, 13, Basinghall-street.—Pet. f. Oct. 3.

WILLIAM ANDERSON, Broad-street, Ratcliff, Middlesex, plumber, Oct. 15 and Nov. 19 at 1, London: Off. Ass. Bell; Sol. Holt, 13, Chatham-place, Blackfriars.—Pet. f. Oct. 5.

MEDBURY JOYCE, St. Neot's, Huntingdonshire, timber merchant, Oct. 19 at half-past 1, and Nov. 21 at 11, London: Off. Ass. Johnson; Sols. Sismey, 11, Serjeants'-inn, Fleet-street.—Pet. f. Oct. 5.

WILLIAM HARRIS, West Bromwich, Staffordshire, hay dealer, Oct. 17 and Nov. 6 at half-past 10, Birmingham: Off. Ass. Christie; Sols. Hodgson & Allen, Birmingham.—Pet. d. Sept. 28.

WILLIAM GREAVES, Halifax, Yorkshire, carpet manufacturer, Oct. 16 and Nov. 20 at 11, Leeds: Off. Ass. Young; Sol. Brierley, Halifax.—Pet. d. Sept. 25.

BERNARD SEALE, Sheffield, Yorkshire, plumber, Oct. 17 and Nov. 21 at 10, Sheffield: Off. Ass. Brewin; Sol. Broadbent, Sheffield.—Pet. d. Sept. 30.

JOHN PRICE, Liverpool, licensed victualler, Oct. 15 and Nov. 6 at 11, Liverpool: Off. Ass. Bird; Sol. Tyndall, Liverpool.—Pet. f. Aug. 28.

MARTHA PRICE, Liverpool, licensed victualler, Oct. 15 and Nov. 6 at 11, Liverpool: Off. Ass. Turner; Sol. Tyndall, Liverpool.—Pet. f. Aug. 28.

JOHN SHAW, Dukinfield, Cheshire, machine maker, Oct. 21 and Nov. 11 at 12, Manchester: Off. Ass. Hernaman; Sols. Slater & Myers, Manchester.—Pet. f. Oct. 2.

MEETINGS.

Reuben Theodore Glover and *Edgar Augustus Glover*, Piccadilly, licensed victuallers, Oct. 17 at 11, London, last ex.—*Tilden Smith*, *James Hilder*, *George Scrivens*, and *Francis Smith*, Hastings, Sussex, bankers, Oct. 17 at half-past 11, London, aud. ac.—*George Wythe Daniel*, Harts Woodford, Essex, hotel keeper, Oct. 16 at half-past 12, London, aud. ac.—*Thomas Pearson*, Calthorpe-place, Gray's-inn-road, and Acton, Middlesex, ironmonger, Oct. 27 at 12, London, aud. ac.—*John Johnson*, Crook, Durham, contractor, Oct. 20 at 1, Newcastle-upon-Tyne, aud. ac.—*Henry Tristram*, Liverpool, broker, Oct. 19 at 11, Liverpool, aud. ac.—*John Parr*, Wolverhampton, Staffordshire, woollendraper, Oct. 19 at half-past 10, Birmingham, aud. ac.—*Thomas Hawley*, Blackfriars-road, Surrey; Clement's-inn-passage, Strand; King's-road, Chelsea; and Crawford-street, Marylebone, Middlesex, grocer, Nov. 6 at 12, London, div.—*John Bourke Ricketts*, Leadenhall-street, City, merchant, Oct. 27 at 12, London, div.—*William Booth*, Upper Whitecross-street, St. Luke's, machine sawyer, Oct. 27 at 2, London, div.—*Edward Butler*, Clifford-street, Bond-street, tailor, Oct. 27 at 1, London, div.—*James Morton*, Huntingdon, ironmonger, Oct. 29 at half-past 1, London, div.—*Luke Horsfall*, Accrington, Lancashire, tailor, Oct. 23 at 12, Manchester, aud. ac.; Oct. 30 at 12, div.—*George Shearcroft*, Long Sutton, Lincolnshire, grocer, Nov. 10 at half-past 10, Nottingham, aud. ac. and div.—*Samuel West* and *Frederick Baxter*, Nottingham, lace makers, Nov. 10 at half-past 10, Nottingham, aud. ac. and div.—*Robert James Brown*, Sunderland, timber merchant, Oct. 29 at half-past 11, Newcastle-upon-Tyne, div.—*William Edward Brockett*, Newcastle-upon-Tyne, and Whickham, Durham, money scrivener, Oct. 29 at half-past 12, Newcastle-upon-Tyne, fin. div.—*William Rawle*, Liverpool, broker, Oct. 29 at 11, Liverpool, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Cornelius Davies and *Frederick Norman*, Great Scotland-yard, Westminster, cement merchants, Oct. 29 at half-past 11, London.—*Thomas Nash* the younger, Great Dover-street, Southwark, brushmaker, Oct. 29 at 1, London.—*Edmund White*, New Corn Exchange, Mark-lane, City; Phoenix Wharf, Stratford, Essex; and Globe Wharf, Wapping, Middlesex, corn merchant, Oct. 29 at 2, London.—*James Morton*, Huntingdon, ironmonger, Oct. 29 at half-past 1, London.—*John Watson*, Upper Bemerton-street, Caledonian-road, Islington, piano-forte manufacturer, Oct. 29 at half-past 1, London.—*John Dockree*, Percival-street, Goswell-street, wine merchant, Nov. 2 at half-past 1, London.—*Thomas Burnham Clark*, Minories, City, licensed victualler, Nov. 2 at 12, London.—*Jonathan Cruse*, Kintbury, near Hungerford, Berkshire, builder, Nov. 2 at 2, London.—*William Randall*, Maidstone, hotel keeper, Nov. 2 at 1, London.—*Stephen Rowley*, Cambridge, fellmonger, Nov. 4 at 2, London.—*William Squires*, Oxford-street, gun maker, Nov. 4 at half-past 11, London.—*Thomas Warington*, Mark-lane, City, corn merchant, Nov. 4 at 12, London.—*George Tilley*, Walton-on-Thames, Surrey, brewer, Nov. 4 at 11, London.—*Robert Hugh Lankester*, Bread-street, Cheapside, enamelled bag manufacturer, Oct. 27 at half-past 2, London.—*Francis Menser*, Brownlow-place, Queen's-road, Haggerstone, Middlesex, baker, Oct. 27 at 2, London.—*William Hadfield*, Cockspur-street, Middlesex, merchant, Oct. 28 at 12, London.—*W. Standing*, Kingsland-crescent, Kingsland-road, Middlesex, engineer, Oct. 29 at half-past 12, London.—*Edward Simmons Cooper*, Commercial-place, City-road, Middlesex, leather seller, Oct. 28 at half-past 1, London.—*Joseph Bradbury Robinson*, Macclesfield, hosier, Oct. 28 at 12, Manchester.—*John Longton*, Liverpool, ship broker, Oct. 29 at 11, Liverpool.—*Henry Heathcote Statham*, Liverpool, attorney-at-law, Oct. 29 at 11, Liverpool.—*James Stamps*, Handsworth, and *William Finch* the elder, Tipton, Staffordshire, paper makers, Nov. 13 at 10, Birmingham.—*Thomas Bennett*, Derby, miller, Oct. 27 at half-past 10, Nottingham.—*Samuel West*, Nottingham, lace maker, Oct. 27 at half-past 10, Nottingham.

To be granted, unless an appeal be duly entered.

George Groom, Norwich, shoe factor.—*Henry Gladwell Mortimer*, Lee, Kent, builder.—*Richard Winter Neave*, Market Rasen, Lincolnshire, and Sheffield, Yorkshire, miller.—*Richard Bate*, Shrewsbury, wine merchant.—*Richard Wheeler*, St. Owen, Herefordshire, miller.—*William Lindop*, New-road, Talk-o'-th'-Hill, Staffordshire, miller.

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GAZETTES.—Friday, *Oct.* 9.

Bankrupts.

WILLIAM CLAYTON, Watling-street and West Smithfield, wholesale perfumer, Oct. 22 and Nov. 26 at 12, London: Off. Ass. Johnston; Sols. Lepard & Gammon, Cloak-lane.—Pet. presented Sept. 19.

FREDERICK RYDER, Basinghall-street, wholesale stationer, Oct. 19 at 11, and Nov. 19 at 2, London: Off. Ass. Johnson; Sols. Smith & Co., 77, Basinghall-street.—Pet. f. Oct. 6.

LAMBERT PHILIP MOLLEDON, Mark-lane, manure dealer, Oct. 22 at 2, and Nov. 24 at 12, London: Off. Ass. Lee; Sols. Ashurst & Co., 6, Old Jewry.—Pet. f. Sept. 22.

FRANCESCO ZERMAN, Leicester-square, coffee-house keeper, Oct. 20 at half-past 12, and Nov. 17 at half-past 2, London: Off. Ass. Lee; Sol. Govett, 9, Featherstone-buildings, Holborn.—Pet. f. Oct. 8.

JOHN CATT and ARTHUR WELLINGTON CALLEN, Lower Shadwell, beer merchants, Oct. 22 at half-past 2, and Nov. 24 at 1, London: Off. Ass. Edwards; Sols. Miller & Horn, 7, St. Martin's-place, Trafalgar-square.—Pet. f. Oct. 6.

JOHN WAKEFIELD, Ilkeston, Derbyshire, baker, Oct. 20 and Nov. 10 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Lees, Nottingham.—Pet. d. Sept. 30.

WILLIAM COE, Halifax, Yorkshire, builder, Oct. 22 and Nov. 20 at 11, Leeds: Off. Ass. Young; Sols. Ingram, Halifax; Bond & Barwick, Leeds.—Pet. d. Oct. 8.

MATTHEW TOWNSEND, Leicester, manufacturer of hosiery, Oct. 20 and Nov. 10 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Miles & Gregory, Leicester; Hodgson & Allen, Birmingham.—Pet. d. Sept. 30.

JOSEPH HALFORD, Cheltenham, Gloucestershire, ironmonger, Oct. 20 and Nov. 16 at 11, Bristol: Off. Ass. Miller; Sols. Chessbyre, Cheltenham; Bevan & Girling, Bristol.—Pet. f. Oct. 6.

WILLIAM SMITH, Bath, Somersetshire, hotel keeper, Oct. 20 and Nov. 16 at 11, Bristol: Off. Ass. Miller; Sols. Wilton, Bath; Shaen & Grant, Kennington-cross, Lambeth.—Pet. f. Oct. 3.

JAMES SCORE, Pilton, Devonshire, timber dealer, Oct. 19 at 1, and Nov. 11 at 11, Exeter: Off. Ass. Hirtzel; Sols. Carter & Chanter, Barnstaple; Stogdon, Exeter.—Pet. f. Oct. 1.

Meetings.

Louis Philippe Remy Fenwick de Porquet, Fenchurch-street, City, and Fairkytes, Hornchurch, Essex, dealer in agricultural implements, Oct. 22 at half-past 11, London, aud. ac.; Oct. 30 at half-past 1, div.—*William Henry Flux*, Heston, Middlesex, grocer, Oct. 22 at half-past 11, London, aud. ac.; Oct. 30 at half-past 12, div.—*Joseph Brook*, Lawrence-lane, City, and Bradford, Yorkshire, stuff merchant, Oct. 23 at 11, London, aud. ac.—*Samuel Munday*, Gosport, Hampshire, baker, Oct. 22 at 11, London, aud. ac.—*John Figg*, Farnham, Surrey, shoemaker, Oct. 22 at 11, London, aud. ac.—*John Marshall*, Birchin-lane, City, merchant, Oct. 23 at 11, London, aud. ac.; Oct. 30 at 11, div.—*John Evans*, Aberystwith, Cardiganshire, ship builder, Oct. 30 at 11, Bristol, aud. ac.; Nov. 5 at 11, div.—*Timothy Wooster*, Cheltenham, Gloucestershire, seedsman, Oct. 30 at 11, Bristol, aud. ac.; Nov. 5 at 11, div.—*David Johns*, Cardiff, Glamorganshire, draper, Nov. 5 at 11, Bristol, aud. ac.—*Andrew Love* and *Chas. Keys*, Liverpool, looking-glass manufacturers, Oct. 22 at 11, Liverpool, aud. ac. sep. est. of *Andrew Love*.—*William Rawle*, Liverpool, broker, Oct. 22 at 11, Liverpool, aud. ac.—*Knowlton Wilson*, Sheffield, Yorkshire, apothecary, Oct. 24 at 10, Sheffield, aud. ac.—*William Heron*, Huddersfield, Yorkshire, cloth merchant, Oct. 22 at 11, Leeds, aud. ac.—*Gilbert Hodgson* and *William Atcheson*, Sunderland, Durham, timber merchants, Oct. 19 at half-past 11, Newcastle-upon-Tyne, aud. ac. sep. est. of *Gilbert Hodgson*.—*Thomas Reed*, George-street, Mile-end New-town, bent timber manufacturer, Oct. 30 at half-past 10, London, div.—*Francis L. Simond* and *Charles H. J. Cuylits*, Cullum-street, City, merchants, Oct. 30 at half-past 12, London, div.—*Daniel Ross*, Romford, Essex, grocer, Oct. 31 at 12, London, div.—*Wm. Adams*, Huntingdon, miller, Oct. 31 at 12, London, div.—*Thomas Pearson*, Calthorpe-place, Gray's-inn-road, and Acton, Middlesex, ironmonger, Nov. 3 at 1, London, div.—*Wm. Henry Woollett* and *John F. S. Woollett*, Lime-street-square, City, ship agents, Nov. 3 at 12, London, div.—*Wm. Semmons*, Redruth, Cornwall, draper, Nov. 3 at 12, London, fin. div.—*Frederick William Whiston*, Birmingham, druggist, Nov. 2 at half-past 10, Birmingham, aud. ac. and div.—*John Mottram*, Shewsbury, hop merchant, Nov. 2 at 10, Birmingham, div.—*John B. Reed*, Cardiff, Glamorganshire, ship broker, Nov. 5 at 11, Bristol, div.—*David Howard*, Leeds, worsted spinner, Nov. 2 at 11, Leeds, div.—*Alex. Harthill* and *John M'Kean*, Huddersfield, woollen merchants, Oct. 30 at 11, Leeds, div.—*Benj. Canter*, Barnsley, Yorkshire, cloth merchant, Oct. 30 at 11, Leeds, div.—*Jas. Wakinshaw*, Monkwearmouth Ironworks, Sunderland, iron manufacturer, Nov. 3 at 12, Newcastle-upon-Tyne, fin. div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Thorburn, Pleydell-street, Fleet-street, City, and Lower Stamford-street, Surrey, bookbinder, Oct. 30 at half-past 11, London.—*Louis Philippe Remy Fenwick de Porquet*, Fenchurch-street, City, and Fairkytes, Hornchurch, Essex, dealer in agricultural implements, Oct. 30 at half-past 1, London.—*Charles Baker*, Southampton, timber merchant, Oct. 30 at 1, London.—*Wm. Hart*, Charlotte-terrace, Great Charlotte-street, Blackfriars-road, Lambeth, wine merchant, Nov. 3 at half-past 1, London.—*Thomas H. May*, Rathbone-place, Oxford-street, baker, Oct. 31 at 12, London.—*T. Bullock*, Liphook, Bramshott, Hampshire, grocer, Nov. 6 at half-past 1, London.—*Charles Rust*, Surrey-place, Old Kent-road, Surrey, cheesemonger, Nov. 6 at 2, London.—*Wm. Gifford*, St. Ives, Huntingdonshire, saddler, Nov. 6 at 1, London.—*E. Etherington*, Godalming and Aldershott, Surrey, grocer, Nov. 6 at half-past 12, London.—*Charles Copland* and *Wm. G. Barnes*, Botolph-lane, City, and Southampton, provision merchants, Nov. 6 at half-past 2, London.—*T. Wooster*, Cheltenham, Gloucestershire, seedsman, Nov. 10 at 11, Bristol.—*Wm. Gibbon*, Spenny Moor, Durham, grocer, Nov. 3 at 12, Newcastle-upon-Tyne.—*Jas. Phillips*, Audlem, Cheshire, draper, Nov. 2 at 12, Liverpool.

To be granted, unless an Appeal be duly entered.

J. Borsley, Argyle-square, King's-cross, Middlesex, builder.—*John Evans*, Aberystwith, Cardiganshire, ship builder.—*Richard Wheeler*, (and not *Bate*, as advertised in last Tuesday's Gazette), St. Owen, Herefordshire, miller.

Petitions Annulled.

Philadelphia Bravery, Brighton, furniture dealer.—*Frederick Rickards*, Farnborough, Hampshire, carrier.

Partnership Dissolved.

Wm. H. King and *Samuel Broomhead Ward*, Manchester, attornies and solicitors, (trading under the firm of King & Broomhead Ward).

Scotch Sequestrations.

John Henderson, Dunfermline, bookseller. — *William M'Naughton*, Muthill, innkeeper.—*James M'Nabb & Son*, Old Toll, Ayrshire, joiners.—*William Crooks*, Paisley, currier.—*Henry Frederick Holt*, South Beach, Stornoway, Island of Lewis, Ross-shire.—*Charles Stewart*, Glasgow, manufacturer. — *William Weir*, Kilmarnock, Ayrshire, shoemaker.—*William R. Duncan*, Lerwick, head postmaster of Zetland. — *Bryce Henderson*, Rothesay, painter. — *Samuel Krotoshiner*, Glasgow, tobacconist.—*James Hogg*, Edinburgh, hair dresser.—*Wm. C. Pyper*, Johnshaven, Kincardineshire, master in the royal navy.—*James Barnet*, Glasgow, joiner.—*Wm. Spark*, Aberdeen, hardware merchant.

Tuesday, *Oct.* 13.

Bankrupts.

CHARLES EDWARD BACK, Tottenham-court-road, grocer, Oct. 22 at 11, and Nov. 26 at 1, London: Off. Ass. Bell; Sol. Millman, Danes-inn, Strand.—Pet. f. Oct. 12.

WILLIAM FISHER, Kilburn, butcher, Oct. 22 at 2, and Nov. 12 at 12, London: Off. Ass. Johnson; Sols. Smith & Son, Barnard's-inn.—Pet. f. Oct. 10.

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THE JURIST.

LONDON, OCTOBER 17, 1857.

A CASE decided last year by Sir W. P. Wood, V. C., of rather a singular character, deserves, we think, some further consideration. The case alluded to is that of *Harris* v. *Watkins*, (2 Kay & J. 473). There the testator, by his will in 1844, after making certain specific devises and bequests, gave, devised, and bequeathed to his wife *all the rest and residue* of his real and personal estate and effects absolutely, and appointed her executrix of his will; and the testator *declared* that the devises and bequests thereby made to his wife should be taken and considered *in lieu and discharge of all money which he had borrowed out of and forming part of the trust monies mentioned in the settlement made on his marriage with her.* Three days after the death of the testator, in 1848, his wife died, without having proved his will, and without having possessed herself of any of his real or personal effects. According to the evidence it was not clear that it was for the disadvantage of the widow to retain the estate devised to her, and to give up the debt due from her husband, which upon his death had become her absolute property. It was held by Sir W. P. Wood, V. C., in a contest between the heir-at-law and the personal representative of the widow, that the Court could not presume a disclaimer by her, that consequently her heir was entitled to the estate, and that the debt claimed by her administrator as due from the testator on account of the trust funds which he had borrowed was discharged. His Honor, when the counsel for the administrator of the wife argued that the Court had never presumed election by a deceased person in such a case, said, "that it was not so much whether the Court would presume election as whether it would presume a rejection of the devise." In giving judgment his Honor said, "Where an estate is devised by will, the estate passes to the devisee by virtue of the devise; and unless there be a disclaimer by the devisee, shewing an intention on his part not to take, the estate remains in him. Here the testator has not required any act to be done by the devisee; he has imposed nothing in the nature of a condition to be performed by her previously to the vesting of the estate. . . . . The estate, therefore, vested in the devisee; and the *devisee, by the mere circumstance of its so vesting in her, discharged the testator's estate from all money borrowed by him out of and forming part of the trust monies mentioned in the marriage settlement.* This is the result, provided the devisee did not disclaim. In this case there is no evidence of any disclaimer, and the only question is, whether, having regard to the circumstances of the devisee's death, and to the relative values of the estate devised and of the debts to be discharged, the Court is called upon to presume a disclaimer. Whether circumstances might not exist under which the Court would be justified in presuming a disclaimer is a question of some nicety. *I am not aware of any authority upon the point*, but I apprehend that in a strong case—for instance, if a testator devised real estate worth 10,000*l.* only, and declared that it should be taken in lieu and discharge of debts to the amount of 20,000*l.*—in such a case, it being manifest that it would be for the disadvantage of the devisee to retain the estate upon the terms mentioned in the will, the Court, in the event of the donee dying under circumstances like the present, would, as between his real and personal representatives, struggle hard to presume a disclaimer; but when it is not manifest that it would be for the disadvantage of the devisee to retain the estate upon the terms proposed by the testator, the ground of that presumption fails, and the presumption does not arise."

With great deference to the learned judge, it appears to us that the conclusion at which he arrived cannot be supported upon sound principles, and that in fact it rests upon a mere fallacy. It is true, as observed by his Honor, that the estate devised by the will passed to the devisee by virtue of the devise—it was the testator's own property, and he had power to devise it; but when we come to the next step in his reasoning, viz. "that the devisee, by the mere circumstance of the estate so vesting in her, discharged the testator's estate from all the money borrowed by him out of and forming part of the trust monies mentioned in the marriage settlement," we must beg leave altogether to dissent from him. The borrowed money was the property of the trustees of the settlement and his wife; and it appears to be introducing quite a new principle in English law to say that the debtor, independent of the doctrine of election, (which the Vice-Chancellor, it will be observed, said was not applicable to this case), can, by leaving property of his own to the creditor, discharge his own estate from the debt, or, in other words, bequeath the debt to others.

At *law*, whatever might be the effect in *equity*, the mere fact of the devisee not disclaiming the devise would not have the effect of discharging the estate of the testator from the debt due to the trustees of the settlement. Suppose they had commenced an action against the personal representative of the testator, would it have been any defence to the action to plead the devise to his wife? It appears to us that it would not—that, in fact, the legal right to recover the debt remained in the trustees of the settlement, and the beneficial interest in the wife. The learned Vice-Chancellor seems to have thought, that because the legal interest in the devised property passed to the wife, it was necessarily to be assumed that she gave up her own property, unless a disclaimer could be presumed. But in cases where equity puts in force the doctrine of election, the legal interest in the testator's own property passes to the person to whom he devises or bequeaths it. The mere vesting of the legal estate, therefore, in the devisee constituted no valid objection to the application of the doctrine of election.

It seems to us that the principles of the doctrine of election, and not the novel and certainly startling doctrine of disclaimer, were applicable to this case. Suppose the testator had bequeathed the debt due to the trustees of the settlement and his wife to A., and devised the estate to his wife, according to the ordinary principles of election the wife would have been entitled to elect between the devised estate and the debt, and would have been allowed sufficient time to ascertain their relative values, nor would she have been concluded by merely equivocal acts. Under such circumstances, if, as in the case under consideration, she had done no acts from which election could be presumed, her personal representative, upon whom the beneficial interest in the debt had devolved, would be entitled to it absolutely, or would be entitled to elect in the same manner as the wife might, and would have been compelled to, have done, had she lived longer. If the wife's personal representative elected to retain the debt, then A. would have been entitled to compensation out of the devised estate.

The case of *Harris* v. *Watkins*, in substance, only differs from the case put in this circumstance, that in the latter case election arises by implication—in the former from the express words of the testator. The decision, we submit, should be in both cases the same, viz. in favour of the personal representative of the wife. A decision to the contrary enables one person to divert the property of another from one class of his representatives to another, in a manner, perhaps, quite contrary to his wishes, and certainly contrary to the course of succession marked out by the law.

Then, again, the doctrine relative to the presumption of disclaimer seems to us to be far from satisfactory. The relative values of estates ought not to affect the judgment of the Court, for non constat that the pretium affectionis might not far outweigh, in the estimation of a person, the market value. Mere value, therefore, as a test of presumed disclaimer, seems, in some cases at any rate, to be very insufficient. In the case put by the Vice-Chancellor, his Honor evidently is aware of the difficulties to which the principles of his decision might give rise if carried out to their full extent, for he does not venture to say that the Court could presume a disclaimer, unless "in a *strong case*," when the Court would "*struggle hard to presume a disclaimer*," as in the case where the devised estate was worth 10,000*l*., which the testator declares is to be taken in lieu and discharge of debts to the amount of 20,000*l*. But where is the line to be drawn? How gross must be the difference of value before the Court commences its exercitations to save the confiscation of the debt, or, at any rate, so much of it as is in excess of the value of the estate? Would the Court, where the debts amounted to 20,000*l*., presume a disclaimer if the estate bequeathed in lieu of them was worth only 10,000*l*., but refuse to do so if the estate was worth 15,000*l*., or 19,000*l*., or some intermediate sum? The consequence of the refusal would be to allow the debtor to repudiate the payment of a certain amount of his debt, contrary to the wishes of the personal representatives of the creditor. In reality the decision in such a case should be altogether independent of the question of value, which evidently leads to great and often insurmountable difficulties. The Court should not take upon itself to determine, from the supposed value of the respective properties, what should be determined solely by the *intention*, either express or implied, of the person most interested, viz. the party, or the representative of the party, who is called upon to give up his own property in lieu of other property conferred upon him. In fine, as we have before observed, we cannot but think that to such cases as *Harris* v. *Watkins* the doctrine of election, and not the doctrine of disclaimer, is applicable.

BRITISH JURISDICTION IN TURKEY.

(*Concluded from p.* 400).

10. That it shall be lawful for the judge from time to time to establish rules of practice to be observed in proceedings before the said judge, such rules to be, as far as possible, in conformity with those which are established in the county courts of England, regard being had to the difference of local circumstances and long-established custom, and to make regulations for defraying the expenses of witnesses in such proceedings, and the cost of criminal prosecutions; and also to establish rates of fees to be taken in regard to civil suits

heard and determined before the judge; and it shall be lawful for the judge to enforce by seizure and sale of goods, or, if there be no goods, by imprisonment, the payment of such established fees, and of such expenses as may be adjudged against the parties, or either of them: provided always, that a table specifying the rates of fees to be so taken shall be affixed and kept exhibited in the public office of the said Consular Court.

11. That it shall be lawful for the judge from time to time, and as he shall think fit, to order the observance, by all the consuls holding consular courts within the dominions of the Sublime Ottoman Porte, of such rules of practice in the proceedings before them as he shall in that behalf establish.

12. That all rules and regulations heretofore made and continuing unrepealed, or to be hereafter made by the judge as aforesaid, shall forthwith be printed, and a copy of the same be affixed, and kept affixed and exhibited, in some conspicuous place in the public office of the judge, and printed copies of the said rules and regulations shall be provided by the judge, and sold at a price not exceeding *5s.* for each copy; and for the purpose of convicting any person offending against the said rules and regulations, and for all other purposes of law whatsoever, a printed copy of the said rules and regulations, certified under the hand of the judge and seal of the court to be a true copy thereof, shall be taken as conclusive evidence of such rules and regulations, and no penalty shall be incurred or shall be enforced for the breach of any such rules or regulations to be hereafter made until the same shall have been so affixed and exhibited for one calendar month in the court of the consular district within which the breach of such rules or regulations shall be alleged to have been committed.

13. That it shall be lawful for the judge to promote the settlement of any suit of a civil nature by amicable agreement between the parties, and, with the consent of the several parties, to refer the decision of any such suit to one or more arbitrators, and to take security from the parties that they will be bound by the result of such reference; and the award of such arbitrator or arbitrators shall be to all intents and purposes deemed to be a judgment or sentence of the judge in such suit, and shall be entered and recorded as such, and shall have the like effect and operation, and shall be enforced accordingly, and shall not be open to appeal: and it is further ordered, that in cases of assault it shall be lawful for the judge to promote reconciliation between the parties, upon such terms, either of payment of compensation or otherwise, as he shall think fit, and to order the proceedings thereupon to be stayed.

14. That it shall be lawful for the judge to enforce his decision against a British subject, in any suit of a civil nature, by distress or imprisonment, in like manner as a decision of the courts of law in England in a civil suit is enforced.

15. That all fines and penalties imposed under this Order may be levied by distress and seizure and sale of ships and goods and chattels; and no bill of sale, mortgage, or transfer of property, made after the apprehension of a party, or with a view to security in regard to crimes or offences committed or to be committed, shall avail to defeat any of the provisions of this Order.

16. That it shall be lawful for the judge to hear and determine any suit of a civil nature which may be brought before him in the Supreme Consular Court of Constantinople, on appeal from the decision made by any consul, with or without the aid of assessors; and such consul, on notice of the intention of either party to the suit to appeal from his decision, shall forthwith furnish the judge with a report of the case, with the notes taken by him of the evidence adduced at the trial, together with a copy of the judgment delivered by the said consul: provided always, that notice of such appeal shall have been given within the time limited by such rules and regulations as the judge may establish under the 10th article of this Order; and further, that the party appealing shall have in all other respects complied with such rules.

17. That in any case in which a consul shall have heard and determined a suit in the presence and with the assistance of assessors, in which such assessors, or either of them, shall dissent from the decision of the consul, the consul shall enter the fact of such dissent, and the grounds thereof, in the minutes of the proceedings, and such decision shall, in the event of no appeal being entered as aforesaid, be submitted to the judge for revision, in the same manner as if such decision had been made the subject of an appeal by either of the parties to the suit.

18. That in an appeal to the judge from the decision of a consul it shall not be open to either party to adduce any further evidence than that which has been laid before the consul, and that a party shall not be required to appear personally to prosecute an appeal or support a sentence, unless specially required by the judge to do so: provided always, that in all appeals from the decision of a consul it shall be lawful for a party to allege facts essential to the issue of the suit which have come to his knowledge subsequently to the decision of the consul, and to produce evidence in support of such facts: and provided also, that in an appeal to the Supreme Consular Court it shall moreover be lawful for the judge to admit any further legal evidence besides that adduced before the consul, on its being established to the satisfaction of the said Supreme Court, by oath or affidavit, that the party desiring to produce such further evidence was ignorant of the existence of such evidence, or was taken by surprise at the hearing before the consul, or was unable to produce it before the consul after due and reasonable diligence and exertion on his part in that behalf, or where, under the circumstances of the case, it shall appear to the said Supreme Court that further evidence ought to be received.

19. That her Majesty's consuls resident within the dominions of the Sublime Ottoman Porte shall every six months deliver to the judge of the Supreme Consular Court at Constantinople a full and faithful report of every cause, civil and criminal, which may have been brought before such consuls, in such form and with such particulars as the judge may, in the rules and regulations to be by him framed under the 10th article of this Order, think fit to require.

20. That in all cases in which a British subject shall have been sentenced to be sent out of the dominions of the Sublime Ottoman Porte, as provided in articles 5, 6, and 8 of this Order, the consul so sentencing him shall forthwith report such sentence of deportation, with the grounds of his decision, to the Supreme Consular Court; and it shall be lawful for the judge, if he shall consider that any such act of deportation inflicts upon the party a severer punishment than his offence has deserved, to vary or remit such punishment in such way as to him shall seem fit.

21. That if either party to a suit of a civil nature before the judge shall be dissatisfied with the decision given by such judge, it shall be lawful for such party, within fifteen days, to give to the judge notice of his intention to appeal; and such appeal shall be made by petition to her Majesty, subject to such rules as the judge shall make in the rules and regulations which he shall, under article 10 of the present Order, establish; and such appeal shall be decided by the Judicial Committee of her Majesty's Privy Council, upon a written statement by both parties to the suit, together with the judge's notes of the evidence adduced at the trial, and his judgment therein: provided always, that the sub-

ject-matter of such suit is of the value of 1000*l.* sterling, and that the party appealing shall have given security, to the satisfaction of the judge, that such party shall abide by the decision to be given by the Court of Appeal.

22. That the judge shall, in the exercise of his discretion, and upon the petition of either of the parties to a suit, permit such party to appeal, in the same way and subject to the same conditions as in article 21, hereinbefore mentioned, in respect of suits the subject-matter of which shall be under the value of 1000*l.*: provided that such party shall give such security as the judge shall direct to abide by the decision of the said Court, or shall conditionally perform the judgment given by the judge in the first instance.

23. That it shall be lawful for the judge or consul of the district within which the party sued shall be found in like manner to hear and determine any suit of a civil nature, arising within any part of the dominions of the Sublime Ottoman Porte, instituted by a British subject against a subject of the Sublime Ottoman Porte, or against a subject or citizen of a foreign state in amity with her Majesty: provided that the defendant in such suit shall consent to submit to his jurisdiction, and give sufficient security that he will abide by the decision of the judge or consul, or, in case of appeal from the decision of the consul, by that of the judge, and will pay such damages and expenses as the judge or consul shall order; and if either or any party in such suit shall be dissatisfied with the decision given by such consul, it shall be lawful for such party within fifteen days to give to the consul notice of appeal to the judge; and the proceedings in such a suit, or in an appeal arising therefrom, shall be conformable to and under the same conditions as the proceedings in a suit, or in an appeal arising therefrom, in which a British subject is the defendant, and a subject of the Sublime Ottoman Porte, or a subject or citizen of a foreign state in amity with her Majesty, is the plaintiff.

24. That whenever it shall be necessary for the judge, acting as the representative of the Consul-General, to communicate with the Government of the Sublime Ottoman Porte, whether in the way of complaint against any matter or thing done or neglected to be done by any agent or officer of the said Government, or by way of remonstrance, or for any other purpose, such communication shall be made under the seal of the Consular Court, through her Majesty's ambassador at the said Porte, and through his interposition, and not otherwise; and her Majesty's ambassador shall thereupon, if he shall think fit, make such communication, or in case her Majesty's ambassador shall consider it undesirable to make such communication, then such ambassador shall state his reasons in writing, for the information of her Majesty's Principal Secretary of State for Foreign Affairs, and transmit the same, together with a copy of the communication itself, and of the reasons given by the judge for requesting the same to be made, to the said Secretary of State.

25. That whenever any British subject shall, within the district of the said Consular Court of Constantinople, become bankrupt or insolvent, or unable or refuse to pay his just debts, it shall be lawful for the judge of the Consular Court, on the petition of any creditor, to cite such person to appear before him for the purpose of answering such questions touching his estate, both real and personal, as such judge shall think fit; and if such person shall neglect to appear when so summoned, it shall be lawful for the judge to issue a warrant, under the seal of the said Court, for his apprehension, and cause him to be taken into custody; and upon his so appearing he shall be proceeded against in the said Consular Court in the same way, so far as circumstances will admit, as if he were within the jurisdiction of the courts of bankruptcy or insolvency in England; and such judge shall, for the purposes aforesaid, possess and have all the powers, authority, and jurisdiction of the commissioners of insolvency or bankruptcy in England.

26. That it shall be lawful for the judge to hear and decide all cases of appeal in bankruptcy or insolvency which shall be brought, either by the petitioning creditor of any bankrupt, or by the bankrupt himself, against the decision of any consul sitting in bankruptcy or insolvency, in the same way as such judge shall hear and decide all other cases of appeal under the 16th and 17th articles of this Order.

27. That in the event of any question of law or fact, or of mixed law and fact, arising out of the administration of any estate of a deceased British subject within the dominions of the Sublime Ottoman Porte, it shall be lawful for the Consul-General, or other consular officer under whose authority and direction such estate is being administered, to direct the parties interested in such estate, and raising such question as aforesaid, to prepare a special case, according to the rules and regulations to be laid down by the judge under article 10 of this Order, for his decision and direction, and such judge shall thereupon make such order in the matter as he shall think fit.

28. That a minute of the proceedings in every case heard and determined before the judge, or before any consul, in pursuance of this or any other Order, shall be drawn up and be signed by the judge or consul, and shall, in cases where assessors are present, be open for the inspection of such assessors, and for their signature if they shall therein concur; and such minute, together with the depositions of the witnesses or notes of the evidence taken at such trial by the judge or consul, shall be preserved in the public office of the said judge or consul, and a copy of every such minute shall be transmitted by the judge or consul, in such form as shall hereafter be determined, to her Majesty's Chief Secretary of State for Foreign Affairs every six months.

29. That it shall be lawful for every consul within the dominions of the Sublime Ottoman Porte to execute the writs and orders issuing from the Supreme Consular Court at Constantinople, and take security from each and every party named in such writ or order for his appearance in person or by his attorney, and in default of such security, or when specially ordered by the said Court, to send such party to Constantinople in the manner pointed out in the 7th article of the Order in Council of the date of the 19th June, 1844.

30. That any suit or action brought against the judge or consul in any Consular Court by reason of anything done under the authority and in execution of the power or jurisdiction of her Majesty intrusted to him or them by this or any other Order, or in execution of any power or jurisdiction heretofore customarily exercised by any of her Majesty's consuls or officers on her behalf, shall be commenced or prosecuted within six months after he or they shall have been within the jurisdiction of the said Court, and not otherwise; and the defendant in every such action or suit shall be entitled to the benefit of the provisions made, with respect to defendants in actions or suits, in stats. 11 & 12 Vict. c. 44, and 6 & 7 Vict. c. 94.

31. That all fees, penalties, fines, and forfeitures levied under this or any other Order, save and except such fees as may be raised by a per-centage on the estates of bankrupts or insolvents, or in respect of the administration of the estate of deceased persons, or of a deposit of monies with any consular officer, shall be paid to the public account, and be applied in diminution of the public expenditure on account of the consular service in the Levant.

* * * * * * * *

33. That this Order shall take effect from and after the 1st day of November next ensuing.

JAMES CHARLES JOHNS, late of Duchess-street, Portland-place, Middlesex, commission agent, (now a prisoner for debt in Whitecross-street Prison), Oct. 28 at 12, and Nov. 24 at half-past 12, London: Off. Ass. Stansfeld; Sol. Oldershaw, 14, St. Swithin's-lane.—Pet. f. Oct. 3.

FREDERICK BRACHER, Old Jewry, City, tailor, Oct. 27 at 2, and Nov. 24 at 12, London: Off. Ass. Edwards; Sol. West, 3, Charlotte-row, Mansion-house. — Pet. f. Oct. 8.

MICHAEL BANES, Watling-street, City, sewed-muslin warehouseman, Oct. 27 at half-past 12, and Nov. 24 at 1, London: Off. Ass. Lee; Sol. Murray, 11, London-street, Fenchurch-street.—Pet. f. Oct. 9.

JAMES WADE, Postford Mills, Chilworth, near Guildford, Surrey, paper maker, (lately trading with Lambert Philip Molledonn, under the style or firm of J. Wade & Co.), Oct. 29 at 11, and Nov. 24 at 12, London: Off. Ass. Lee; Sol. Nicholson, 48, Lime-street, City.—Pet. f. Oct. 10.

CHARLES STARKEY, Brunswick Wharf, Agar-town, King's-cross, dust contractor, Oct. 27 at half-past 2, and Nov. 24 at 2, London: Off. Ass. Lee; Sols. Smith & Son, 6, Barnard's-inn.—Pet. f. Oct. 5.

CHARLES FOULD, Cannon-street, City, merchant shipper, (trading under the style or firm of Fould & Co.), Oct. 31 and Nov. 27 at 12, London: Off. Ass. Edwards; Sols. Depree & Austin, 23, Lawrence-lane, Cheapside.—Pet. f. Oct. 5.

JOHN ALLINGTON, Norwich, grocer, Oct. 28 at 1, and Nov. 24 at 2, London: Off. Ass. Lee; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. Oct. 12.

GRACE SIMONITE, Birmingham, iron-plate worker, (trading under the style or name of John Simonite), Oct. 28 and Nov. 11 at 10, Birmingham: Off. Ass. Christie; Sols. Southall & Nelson, Birmingham.—Pet. d. Oct. 8.

JOHN ROGER REES, Llanelly, Carmarthenshire, grocer, Oct. 27 at 12, and Nov. 24 at 11, Bristol: Off. Ass. Acraman; Sol. Miller, Bristol.—Pet. f. Oct. 5.

HERBERT BENNETT, Chester, draper, Oct. 29 and Nov. 19 at 12, Manchester: Off. Ass. Hernaman; Sols. Cobbett & Wheeler, Manchester.—Pet. f. Oct. 2.

JOHN STOCKS BOOTH, Sheffield, Yorkshire, pianoforte dealer, Oct. 24 and Nov. 21 at 10, Sheffield: Off. Ass. Brewin; Sol. Fernell, Sheffield.—Pet. d. and f. Oct. 9.

WILLIAM LORD and **THOMAS LUPTON**, Shawforth, near Rochdale, Lancashire, cotton spinners, Oct. 26 and Nov. 16 at 12, Manchester: Off. Ass. Hernaman; Sols. Holmes, Barnley; Sale & Co., Manchester.—Pet. f. Oct. 9.

MEETINGS.

John Bean, New London-street, City, and Albert-terrace, Albert-road, Sydenham-park, Kent, coal merchant, Oct. 24 at 11, London, last ex.—*Charles Stanley Bevan* and *Charles Southern Bevan*, Street's-buildings, Chapel-street, Grosvenor-square, bookbinders, Nov. 3 at 1, London, last ex.—*Thomas Olliver*, Prestbury, near Cheltenham, Gloucestershire, livery-stable keeper, Nov. 16 at 11, Bristol, last ex.—*Thomas Reginald Kemp* and *George Clay*, Nicholas-lane, Lombard-street, billbrokers, Nov. 3 at 11, London, aud. ac.—*Thomas Henry May*, Rathbone-place, Oxford-street, baker, Oct. 31 at 12, London, aud. ac.—*Maurice Evans* and *John William Hoare*, Great St. Helens, City, and Trinity-wharf, Rotherhithe, Surrey, export wine merchants, Oct. 26 at half-past 12, London, aud. ac.—*Charles Humbertson* and *Samuel Frodsham*, Liverpool, commission merchants, Oct. 23 at 11, Liverpool, aud. ac. —*William Jeffcoatt*, King's Heath, Worcestershire, baker, Nov. 4 at 10, Birmingham, aud. ac.—*David Howard*, Leeds, worsted spinner, Nov. 2 at 11, Leeds, aud. ac.—*Robert Edw. Key*, Thorney, Cambridgeshire, grocer, Nov. 3 at 11, London, div.—*George Jas. Wagstaff*, Whitechapel-road, watchmaker, Nov. 3 at 11, London, div.—*Thos. Hawkes*, Dudley, Worcestershire, glass manufacturer, Nov. 3 at 11, London, div.—*George Archer*, Great Clacton, near Colchester, Essex, corn merchant, Nov. 3 at 12, London, div.—*Thomas Gore*, Manchester, machine maker, Oct. 28 at 1, Manchester, aud. ac.; Nov. 4 at 1, div.—*Francis Jelley* the younger, Stamford, Lincolnshire, brewer, Nov. 10 at half-past 10, Nottingham, aud. ac. and div.—*Wm. Reay*, Birmingham, corn dealer, Nov. 12 at half-past 11, Birmingham, div.—*Thomas Percival Willcox* and *Edwin Willcox*, Bristol, contractors, Nov. 5 at 11, Bristol, div.—*Philip Nairn*, Waren Mills, near Belford, Northumberland, miller, Nov. 6 at 12, Newcastle-upon-Tyne, fin. div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

George Fox, Wells-mews, Wells-street, Oxford-street, fret cutter, Nov. 4 at half-past 2, London.—*Wm. Henry Richards* and *Sigismund Louis Borkheim*, Gracechurch-street, London, and Balaklava, Crimea, Russia, merchants, Nov. 4 at half-past 2, London.—*Thomas Holmes*, St. Paul's-churchyard, City, bookseller, Nov. 4 at half-past 1, London.—*Thomas Eldridge*, Upper North-place, Gray's-inn-road, and Brownlow-mews, Guildford-street, coachmaker, Nov. 3 at half-past 2, London.—*John Dance* and *Henry Wane*, Fairford, Gloucestershire, grocers, Nov. 9 at 11, Bristol.—*Samuel Dalton*, *Daniel Dalton*, and *Alfred Dalton*, Chester, ironmasters, Nov. 4 at 11, Liverpool.—*Christopher Bancks*, Liverpool, shipchandler, Nov. 3 at 11, Liverpool.—*Thos. Wilson*, West Bromwich, Staffordshire, railway carriage maker, Nov. 13 at 10, Birmingham.—*George Jonathan Robinson*, Nottingham, silk merchant, Nov. 10 at half-past 10, Nottingham.

To be granted, unless an Appeal be duly entered.

Thomas Cuthbert M'Kay and *John M'Kay* the younger, Newcastle-upon-Tyne, hosiers.

PARTNERSHIPS DISSOLVED.

Henry John Barker and *Charles Frederick Barker*, Wem, Shropshire, attornies and solicitors.—*Henry Moxon* and *Robert James Dobie*, Bedford-row, London, attornies and solicitors.

SCOTCH SEQUESTRATIONS.

James M'Creath, Glasgow, potato merchant.—*J. Hunter*, Maryhill, near Glasgow, provision dealer.—*Samuel Liberman*, Glasgow, oil-cloth manufacturer.—*James Young*, Glasgow, commission broker.—*Alexander Robertson*, Woodend, Botriphnie, Banffshire, farmer.—*Samuel M'Innes*, Edinburgh, wholesale grocer.—*Hugh Orr*, Glasgow, grocer.—*A. Smith*, Paisley, coachbuilder.

Mr. Charles E. Lewis, of the firm of Harrison & Lewis, of New Boswell-court, Lincoln's-inn, has recently been presented with a silver salver and a purse of one hundred sovereigns, by several of the officers who were removed by the passing of the Metropolitan Local Management Act, in testimony of their appreciation of his successful exertions to obtain compensation for the loss of their offices.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed Frederick William Fisher, Gent., of Doncaster, Yorkshire, to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, in and for the West Riding of the county of York.

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GAZETTES.—Friday, *Oct.* 16.

Bankrupts.

CHARLES REED, Upper Whitecross-street, Middlesex, draper, Oct. 22 at 1, and Nov. 26 at 11, London: Off. Ass. Bell; Sols. Reed & Co., Friday-street.—Pet. f. Oct. 6.

WILLIAM NATHAN SYKES COPE, Wellington-street, Goswell-street, Middlesex, and Nottingham, tobacconist, Oct. 22 and Nov. 26 at 2, London: Off. Ass. Bell; Sols. George & Downing, 35, King-street, Cheapside.—Pet. f. Oct. 13.

RICHARD PALMER, Brighton, plumber, Oct. 26 at 1, and Nov. 24 at 12, London: Off. Ass. Bell; Sol. Cutler, 5, Bell-yard, Doctors' Commons.—Pet. f. Oct. 9.

JAMES STEEDMAN, Albany-street, Regent's-park, Middlesex, pianoforte manufacturer, Oct. 26 and Nov. 24 at 11, London: Off. Ass. Johnson; Sol. Carpenter, 3, Elm-court, Temple.—Pet. f. Oct. 15.

EDWARD HUXLEY, Old Cavendish-street, Middlesex, surgical bandage maker, Oct. 31 at 1, and Nov. 28 at 12, London: Off. Ass. Edwards; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. Oct. 12.

CHARLES ZONCADA, St. Mary-axe, London, general merchant, (carrying on business under the name, style, or firm of Ch. Zoncada & Co.), Oct. 28 at 2, and Nov. 27 at 1, London: Off. Ass. Lee; Sols. Bell & Co., 21, Abchurch-lane, London.—Pet. f. Oct. 5.

EDWIN MILES TAYLER, Lower Thames-street, London, wine merchant, Oct. 29 and Nov. 27 at 11, London: Off. Ass. Edwards; Sol. Anderson, 10, Barge-yard-chambers, Bucklersbury, London.—Pet. f. Oct. 14.

JAMES ANDREWARTHA, Forest-hill-terrace, Kent, builder, Nov. 2 at 11, and Nov. 30 at 12, London: Off. Ass. Pennell; Sol. Flux, 17, Ironmonger-lane, London.—Pet. f. Oct. 9.

SAMUEL EMERY, Aston-juxta-Birmingham, roller of metals, Oct. 29 and Nov. 19 at half-past 11, Birmingham: Off. Ass. Christie; Sol. Smith, Birmingham.—Pet. d. Oct. 12.

JOSEPH MOSEDALE, Coventry, Warwickshire, engineer, Oct. 29 and Nov. 19 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Minster, Coventry; Reece, Birmingham.—Pet. d. Oct. 14.

JOHN TAYLOR, Leicester, manufacturer of fancy hosiery, Nov. 10 and 24 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Haxby, Leicester.—Pet. d. Oct. 10.

JAMES THOMAS RUNDLE and BICTON HULL RUNDLE, Plymouth, linendrapers, Oct. 29 at 1, and Dec. 3 at 10, Plymouth: Off. Ass. Hirtzel; Sol. Turner, Exeter.—Pet. f. Oct. 14.

THOMAS BACKHOUSE, Leeds, painter, Oct. 30 and Nov. 27 at 11, Leeds: Off. Ass. Young; Sols. Bond & Barwick, Leeds.—Pet. d. and f. Oct. 13.

JAMES BLACKHURST, Liverpool, attorney-at-law, Nov. 4 and Dec. 2 at 11, Liverpool: Off. Ass. Cazenove; Sol. Myers, Preston.—Pet. f. Oct. 15.

THOMAS BURY, Salford, Lancashire, dyer, Oct. 29 and Nov. 20 at half-past 12, Manchester: Off. Ass. Hernaman; Sol. Churchill, Manchester.—Pet. f. Oct. 13.

Meetings.

Wm. Edward Hunt, Strand, licensed victualler, Oct. 29 at 1, London, last ex.—*Wm. Trent*, Royal Exchange, City, hosier, Nov. 3 at 2, London, last ex.—*Robert Johnston* and *James Jerram Pratt*, Billiter-square, City, merchants, Oct. 29 at 11, London, last ex. of *Robert Johnston*.—*Isaac Kirkbride* and *John Kirkbride*, Carlisle, marble masons, Oct. 27 at half-past 11, Newcastle-upon-Tyne, last ex.—*Christopher Fairlamb*, Newcastle-upon-Tyne, cheesemonger, Oct. 27 at 11, Newcastle-upon-Tyne, last ex.—*Edw. Simmons Cooper*, Commercial-place, City-road, leather seller, Oct. 29 at 11, London, aud. ac.—*John Swan*, Leadenhall-street, City, merchant, Oct. 28 at 12, London, aud. ac.—*Thomas Eldridge*, Upper North-place, Gray's-inn-road, and Brownlow-mews, Guildford-street, coachmaker, Nov. 3 at half-past 2, London, aud. ac.—*Wm. Hart*, Charlotte-terrace, Great Charlotte-street, Blackfriars-road, Lambeth, wine merchant, Nov. 3 at half-past 1, London, aud. ac.—*Francis Louis Symond* and *Charles Hyacinth Joseph Cuylits*, Cullum-street, City, merchants, Oct. 29 at 11, London, aud. ac. joint est.—*Thomas Reed*, George-street, Mile-end New-town, bent timber manufacturer, Oct. 29 at 11, London, aud. ac.—*Wm. Edward Brockett*, Newcastle-upon-Tyne, and Whickham, Durham, money scrivener, Oct. 28 at 12, Newcastle-upon-Tyne, aud. ac.—*Robert James Brown*, Sunderland, Durham, timber merchant, Oct. 28 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Philip Nairn*, Warren Mills, near Belford, Northumberland, miller, Oct. 30 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Samuel Burgess*, Wharton, Cheshire, salt manufacturer, Oct. 26 at 12, Liverpool, aud. ac.—*William Morris*, Liverpool, grocer, Oct. 26 at 12, Liverpool, aud. ac.—*Richard Blundell*, Hooton, Cheshire, banker and corn dealer, Oct. 27 at 11, Liverpool, aud. ac.—*Richard Blundell*, Liverpool, distiller, Oct. 27 at 11, Liverpool, aud. ac.—*Thomas Bradley*, Kidderminster, Worcestershire, apothecary, Oct. 29 at half-past 11, Birmingham, aud. ac.—*Richard Torring*, Plymouth, builder, Nov. 12 at 10, Plymouth, aud. ac. and div.—*Edmund Lillycrapp Mason*, Plymouth, innkeeper, Nov. 12 at 10, Plymouth, aud. ac.—*Stephen Towan*, Plymouth, currier, Nov. 12 at 10, Plymouth, aud. ac. and div.—*Thomas Greenwood* and *Sam. King*, Devonport, Devonshire, builders, Nov. 12 at 10, Plymouth, aud. ac. and div. sep. ests.—*John Matthews* the younger, Plymouth, statuary, Nov. 12 at 10, Plymouth, aud. ac.—*Anthony Garforth*, *Paul Garforth*, and *Enoch Garforth*, Earlsheaton, Yorkshire, manufacturers, Nov. 9 at 11, Leeds, aud. ac. and div.—*Benjamin Canter*, Barnsley, Yorkshire, cloth merchant, Oct. 29 at 11, Leeds, aud. ac.—*Alexander Harthill* and *John M'Kean*, Huddersfield, Yorkshire, woollen merchants, Oct. 29 at 11, Leeds, aud. ac.—*Philip Davies*, Aberkenfig, near Bridgend, Glamorganshire, grocer, Nov. 6 at 1, London, div.—*John Innes*, St. Mildred's-court, City, merchant, Nov. 6 at 1, London, div.—*Frangoulis Panteleon Platy*, Broad-street-buildings, City, merchant, Nov. 6 at 12, London, div.—*Fred. Kindred*, Framlingham, Suffolk, miller, Nov. 6 at 12, London, div.—*Christian Klug*, New Bond-street, Middlesex, revalenta arabica importer, Nov. 6 at 11, London, div.—*Wm. Dent*, Newcastle-street, Strand, lead merchant, Nov. 6 at 11, London, div.—*Thomas Sephton*, Prescot, Lancashire, licensed victualler, Nov. 6 at 11, Liverpool, div.—*Wm. Doeg* and *John Skelton*, Newcastle-upon-Tyne, timber merchants, Nov. 10 at 11, Newcastle-upon-Tyne, fin. div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

William Billington Mills, Great Berkhampstead, Hertfordshire, brewer, Nov. 6 at 1, London.—*James Simmons*, Bridge-terrace, Harrow-road, Paddington, marble merchant, Nov. 9 at 2, London.—*Egbert Griffiths*, Fenchurch-street, City, wine merchant, Nov. 9 at 11, London.—*John Vickers*, Eldon-road, Victoria-road, Kensington, Middlesex; Cross-lane, St. Mary-at-Hill, Lower Thames-street; and High-street, Southwark, wine merchant, Nov. 9 at 12, London.—*John Hill Govett*, Dennett-road, Peckham, Surrey, builder, Nov. 9 at half-past 12, London.—*Henry William Bund Smallpiece* and *Henry William Smallpiece*, Guildford, Surrey, and Aldershott, Hampshire, curriers, Nov. 9 at 1, London.—*John Jackson*, Mark-lane, City, eating-house keeper, Nov. 6 at 11, London.—*David Johns*, Cardiff, Glamorganshire, draper, Nov. 10 at 11, Bristol.—*Chas. Stonley*, Bishopwearmouth, Durham, builder, Nov. 10 at 1, Newcastle-upon-Tyne.—*Philip Nairn*, Waren-mills, near Belford, Northumberland, miller, Nov. 6 at 12, Newcastle-upon-Tyne.—*Anthony Garforth*, *Paul Garforth*, and *Enoch Garforth*, Earlsheaton, Yorkshire, manufacturers, Nov. 9 at 11, Leeds.—*John Gatrell* the younger, Askham Richard, near York, farmer, Nov. 10 at 11, Leeds.—*William Heron*, Huddersfield, Yorkshire, cloth merchant, Nov. 6 at 11, Leeds.—*Benjamin Canter*, Barnsley, Yorkshire, cloth merchant, Nov. 6 at 11, Leeds.—*Matthew Sheard Beaumont*, Huddersfield, Yorkshire, corn dealer, Nov. 6 at 11, Leeds.—*Thomas Watson*, Ruswarp, Whitby, Yorkshire, shipowner, Nov. 6 at 11, Leeds.—*Joseph Bowron Elgey*, Horton, Bradford, Yorkshire, commission agent, Nov. 6 at 11, Leeds.—*Uriah Wimpenny*, Holme-bridge, Almondbury, Yorkshire, woollen-cloth manufacturer, Nov. 6 at 11, Leeds.—*Benjamin Moseley*, Bradway, Norton, Derbyshire, scythe manufacturer, Nov. 7 at 10, Sheffield.—*Thomas Rodger*, Attercliffe-cum-Darnall, Yorkshire, grocer, Nov. 7 at 10, Sheffield.—*John Wragg* the elder, Sheffield, Yorkshire, cutlery manufacturer, Nov. 7 at 10, Sheffield.—*Samuel Mycroft*, Worksop, Nottinghamshire, butcher, Nov. 7 at 10, Sheffield.

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THE JURIST.

LONDON, OCTOBER 24, 1857.

THE defendant in an action at law may, as a general rule, place his own estimate upon the amount of his liability, and, by bringing it into court, expose his adversary to the risk of having to pay all subsequent costs, unless he ultimately recover a large sum. The only exceptions named in the Common-law Procedure Act, 1852, (sect. 70), are the following:—Actions for assault, false imprisonment, libel, slander, malicious arrest or prosecution, criminal conversation, and seduction. With regard to these statutory exceptions it should be observed, that the first has been held not to include an action for an assault upon the plaintiff's son, (*Newton* v. *Holford*, 6 Q. B. 921), and therefore money may be paid into court in such an action. Also, in actions for libel published in a newspaper or other periodical publication, money may be paid into court if the defendant also plead that the libel was inserted without actual malice, and without gross negligence, and that a full apology for the libel was inserted at the earliest opportunity, (6 & 7 Vict. c. 96, s. 2; and see 8 & 9 Vict. c. 75); and independently of the above statutes, there are several statutory provisions expressly allowing money to be paid into court*. Thus, in actions against justices for acts done in the execution of their office, they may pay money into court; and where they have tendered amends before action, they may avail themselves of it without paying money into court. (11 & 12 Vict. c. 44, s. 11). In all other cases of tender, however, the money must be brought into court. There is a class of cases in which the plaintiff is entitled to have the specific subject-matter of his claim, and not merely its equivalent in money, and in such cases his right is not to be defeated by payment into court. Thus, money cannot be paid into court in actions of ejectment, or to the claim for the goods themselves in actions of detinue. (*Allan* v. *Dunn*, 26 L. J., Ex., 185). In the latter action, however, it may be paid to the damages for the detention of the goods. (See *Crossfield* v. *Such*, 8 Exch. 159). Where the plaintiff is entitled to have his judgment stand as security for a larger sum than that which is sought in the particular action, as in claims founded upon bonds under the 8 & 9 Will. 3, c. 11, money cannot be paid into court, for such payment could not be pleaded to the future breaches. (*The Bishop of London* v. *M'Neil*, 9 Exch. 490; 18 Jur., part 1, p. 314; *England* v. *Watson*, 9 M. & W. 333).

It is sometimes a matter of some difficulty to determine the precise effect of paying money into court as an admission of the cause of action, but we think the following rules may be deduced from the cases. In actions ex contractu, if paid in to special counts, every material averment therein is admitted, viz. the whole of the contract and the breaches as alleged, and the defendant cannot prove, in mitigation of damages, any fact which would be an answer to the action. (See *Perren* v. *The Monmouthshire Railway and Canal Company*, 11 C. B. 855; 17 Jur., part 1, p. 532). If, however, the money be paid to common counts, it operates merely as an admission that so much is due in respect of some contract of the nature declared upon, and the plaintiff must prove his case beyond, as upon the plea of non assumpsit or nunquam indebitatus to the rest of the claim. (*Kingham* v. *Robins*, 5 M. & W. 94). But the defendant cannot reduce the amount claimed by evidence of payment or set-off without pleading those defences. (*Goldy* v. *Goldy*, 26 L. J., Ex., 29). The same distinction holds good in actions of tort. Where the declaration is general and unspecific, as in trover, the payment admits a cause of action to the amount paid in, and the plaintiff must prove his case beyond, as upon the plea of not guilty, (Id.); but if it is specific, the cause of action declared upon is admitted. Thus, where the declaration stated a contract to carry the plaintiff, and alleged a negligent breach of duty and damage to the plaintiff, and the defendant paid money into court, it was held that he had admitted the contract and breach of duty, and that the plaintiff, therefore, was not bound to prove negligence in order to recover a larger amount. (*Perren* v. *The Monmouthshire Railway and Canal Company*, supra).

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* See the 8 & 9 Vict. c. 87, s. 120, as to actions against revenue officers, and the 12 & 13 Vict. c. 106, s. 158, as to actions by assignees of a bankrupt within the time limited for disputing the adjudication.

NATIONAL ASSOCIATION FOR THE PROMOTION OF SOCIAL SCIENCE.

Our readers have doubtless read the proceedings of this society, as they have been daily chronicled in the public journals during the last fortnight; and we propose merely to note the principal doings of the two sections which possess a peculiar interest for lawyers—namely, that of Jurisprudence, and of Reformation and Punishment. Lord John Russell, for some unknown reason, was appointed president of the former department, and in the course of his inaugural address recommended the appointment of a Minister of Justice, the exercise of an equitable jurisdiction by county courts, and first the amendment, and then the codification, of our statute law. Papers were read upon "the transfer of land;" and it was proposed that the kingdom should be divided into registration districts, that land should be registered by figure or letter upon the Ordnance or other maps, and that a certificate of title should be the only title required. Sir Fitzroy Kelly was of opinion that the title, once registered, should be a parliamentary title, and suggested the formation of courts, like the Incumbered Estate Courts of Ireland, consisting of eminent lawyers, where any one wishing to register his title might, after due notice, establish it, and that the person in whose name it was registered should be able to transfer it as stock was transferred. The law of bankruptcy, after being discussed, was referred to a committee, who are to agree upon the provisions of a bill upon the subject. Papers were read upon "the recordation of the law for purposes of promulgation, administration, and legislation," upon legal education, the registration of partnerships, and limited liability. Upon the subject of reformation and punishment, Mr. J. C. Symons read a paper to shew that there was a striking correspondence between crime and density of population—more than between ignorance and crime. Mr. T. B. Baker, of Gloucester, contributed a paper on "the possible extirpation of regular crime." He repudiated as useless the habit of sending boys to reformatories on their first conviction, as he believed that short terms of imprisonment, judiciously administered, would be of much more avail. The first conviction should be followed up by a short imprisonment, more as a warning than otherwise; the second by a much longer term of imprisonment; and the third and fourth by still longer periods; but there should be no waiting until a seventh or eighth offence. By this means there would be separated the tie which connected experienced criminals with younger ones, and the latter would in a great measure escape the infection of the former. He also advocated the extension of the age under which persons were admitted into reformatories, as he thought that equal opportunities for reformation should be extended to criminals of an older class. Mr. A. Hill, barrister-at-law, read a paper on "the Industrial Schools Act, 1857," and recommended the application of "Dunlop's Act" to this country, giving the authorities a power of compelling the attendance at school of mendicant and other children, who could not be brought or retained there by other means. Other papers were contributed upon the distinction between punishment and vengeance, and upon capital and secondary punishments.

BRITISH JURISDICTION IN MOROCCO*.

By an Order in Council published in the London Gazette of the 2nd instant, after reciting that by stat. 6 & 7 Vict. c. 94, her Majesty may exercise any jurisdiction which her Majesty hath within any country or place out of her Majesty's dominions, in the same and as ample a manner as if her Majesty had acquired such power or jurisdiction by the cession or conquest of territory, and that her Majesty hath power and jurisdiction in the dominions of his Majesty the Sultan of Morocco, it is (amongst other things) ordered—

4. That any charge against a British subject for a breach of rules and regulations, other than those relating to the observance of treaties, shall be heard and determined by her Majesty's consul; and in all cases in which the penalty shall not exceed 200 dollars, or one calendar month's imprisonment, the consul shall hear and determine the charge summarily, without the aid of assessors; but where a penalty attached to a breach of the rules and regulations, other than those relating to the observance of treaties, shall amount to more than 200 dollars, or to imprisonment for more than one calendar month, the consul, before he shall proceed to hear the charge, shall summon two disinterested British subjects of good repute to sit with him as assessors, which assessors, however, shall have no authority to decide on the innocence or guilt of the person charged, or on the amount of fine or imprisonment to be awarded to him on conviction, but it shall rest with the consul to decide on the guilt or innocence of the person charged, and on the amount of fine or imprisonment to be awarded to him: provided always, that in no case shall the penalty attached to a breach of rules and regulations, other than those for the observance of treaties, exceed 500 dollars, or three calendar months' imprisonment; and provided further, that in the event of the said assessors, or either of them, dissenting from the conviction of the party charged, or from the penalty of fine or imprisonment awarded to him by the consul, the consul shall take a note of such dissent, with the grounds thereof, and shall require good and sufficient security for the appearance of the person convicted at a future time, in order to undergo his sentence or receive his discharge; and in default of such security being given, it shall be lawful for the consul to cause the person to be detained in custody until such security is given; and the consul shall, with as little delay as possible, report his decision, with all the particulars of the case, together with the dissent of the assessors or assessor, and the grounds thereof, to her Majesty's Chargé d'Affaires and Consul-General in Morocco, who shall have authority in all such cases to confirm, or vary, or reverse the decision of the consul, as to him may seem fit.

* * * * * * * *

8. That it shall be lawful for her Majesty's consul to hear and determine any suit of a civil nature by a Moorish subject against a British subject, arising within any part of the dominions of the Sultan of Morocco, the Moorish governor of the town or district, or the kadi, or other officer who may be appointed by them

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* The parts omitted relate chiefly to the observance of treaties between her Majesty and the Sultan of Morocco.

for that purpose, being present, if he or they so desire, during the trial and judgment of the case; and if the plaintiff in such suit be dissatisfied with the decision of the consul therein, he shall have a right of appeal against the same to the Moorish Commissioner for Foreign Affairs; and if the defendant in such suit be dissatisfied with the decision of the consul therein, he shall have a right of appeal against the same to her Majesty's Chargé d'Affaires and Consul-General, and the decision of the said Moorish Commissioner for Foreign Affairs, or of the said Chargé d'Affaires and Consul-General, upon such appeal, shall be final and conclusive, to all intents and purposes.

9. That all suits of a civil nature by a British subject against a Moorish subject, arising within any part of the dominions of the Sultan of Morocco, shall be heard and determined by the Moorish governor of the town or district, or the kadi, according as the case may appertain to their respective courts, the British consul, or his deputy appointed by him for that purpose, being present, if the said consul shall so think fit, during the trial and judgment of the case; and if the plaintiff in any such last-mentioned suit shall be dissatisfied with the decision of the governor or kadi therein, he shall have a right of appeal against the same to her Majesty's Chargé d'Affaires and Consul-General; and if the defendant in any such last-mentioned suit shall be dissatisfied with the decision of the governor or kadi therein, he shall have a right of appeal against the same to the Moorish Commissioner for Foreign Affairs; and the decision of the said Chargé d'Affaires and Consul-General, or of the said Moorish Commissioner for Foreign Affairs, upon such appeal, shall be final and conclusive, to all intents and purposes.

10. That all suits, disputes, differences, and causes of litigation of a civil nature, arising between British subjects within the dominions of the Sultan of Morocco, shall be heard and determined by her Majesty's consul, who shall be the sole judge and arbiter thereof respectively; subject, nevertheless, to an appeal against the decision of the consul therein to the Supreme Court of her Majesty's garrison and territory of Gibraltar: provided always, that the party intending so to appeal against the decision of the said consul shall, within fifteen days after the determination of the case by the consul, by himself or his agent, give to the consul notice in writing of his appeal to the said Supreme Court of Gibraltar; whereupon the consul shall, as speedily as possible, transmit to the said Supreme Court all the documents which were produced before him in the case, and none other, together with a statement of the evidence taken before him in the case, and of the grounds on which his decision was formed, and shall forthwith notify to the several parties the transmission of the said proceedings to the said Supreme Court: provided also, that it shall be lawful for the consul to require from any person so appealing to the said Supreme Court reasonable security, to consist in part of one or two sufficient sureties, to be approved by the consul, that such person so applying will duly prosecute his appeal, and will abide by the decision to be given therein by the said Supreme Court, and that in case such appeal shall fail, he will answer and satisfy all costs, loss, and damages sustained by the other party by reason of such appeal.

11. That it shall be lawful for her Majesty's consul to summon not less than two, and not more than four, disinterested British subjects, of good repute, to sit with him as assessors at the hearing of any suit, dispute, difference, or cause of litigation whatever, of a civil nature, brought before him for decision; and in case the sum sought to be recovered shall exceed 500 dollars such suit shall not be heard by the consul without assessors, if within a reasonable time such assessors can be procured; but the assessors aforesaid shall have no authority to decide on the merits of such suit; but in the event of such assessors, or any of them, dissenting from the decision of the consul, the consul shall enter the fact of such dissent, and the grounds thereof, in the minutes of the proceedings, and in case of appeal shall transmit the same to the Supreme Court of her Majesty's garrison and territory of Gibraltar, together with the documents relating to the suit.

12. That it shall be lawful for her Majesty's consul to enforce his decision in favour of or against a British subject, in a civil suit, dispute, difference, or cause of litigation, by distress and sale or imprisonment, in like manner as a decision of the Supreme Court of her Majesty's garrison and territory of Gibraltar in a civil suit is enforced within the same.

13. That in case of an appeal to the Supreme Court of her Majesty's garrison and territory of Gibraltar from the decision of her Majesty's consul, it shall be lawful for the said Supreme Court, upon such terms as to costs and otherwise as it shall think proper, to admit any further legal evidence besides that adduced before the consul, on its being established to the satisfaction of the said Supreme Court, by oath or affidavit, that the party desiring to produce such further evidence was ignorant of the existence of such evidence, or was taken by surprise, at the hearing before the consul, or was unable to produce it before the consul after due and reasonable diligence and exertion on his part, or where, under the circumstances of the case, it shall appear to the said Supreme Court that further evidence ought to be received.

14. That her Majesty's consul shall have power, in any civil suit, dispute, difference, or cause of litigation, to examine on oath, or in such form and with such ceremonies as the witness may declare to be binding on his conscience, any witness who may appear before him, and shall have power, on the application of any party in such suit, to issue a compulsory order for the attendance of any person, being a British subject, who may be competent to give evidence in such suit; and any British subject who shall have been duly served with any such compulsory order, and with a reasonable notice of the day of hearing of such suit, and upon his expenses of appearing as a witness having been paid or tendered to him by the party at whose application he shall have been ordered to attend, shall, on his wilful default to appear as a witness at the hearing of such suit, be punished with a fine not exceeding 100 dollars, or with imprisonment for a period not exceeding thirty days, at the discretion of the said consul.

15. Every witness, being a British subject, so examined on oath, whether before the consul or before the Moorish governor or kadi, who shall in any such examination give wilfully false testimony, may be convicted of and punished for the crime of wilful and corrupt perjury.

16. That it shall be lawful for her Majesty's consul to promote the settlement of any civil suit, dispute, difference, or cause of litigation, by amicable agreement between the parties, and, with the consent of the several parties, to refer the decision of a suit or contention to one or more arbitrators, and to take security from the parties that they will be bound by the result of such arbitration; and the award of such arbitrator or arbitrators shall be, to all intents and purposes, deemed and taken to be a judgment or sentence of her Majesty's consul in such civil suit, dispute, difference, or cause of litigation, and shall be entered and recorded as such, and shall have the like effect and operation, and shall be enforced accordingly, and shall be final and conclusive to all intents and purposes, and shall not be open to appeal, unless the same shall within a reasonable time have been ordered by the consul to be set aside on the ground that it is not final, or is defective, or that the arbitrator or arbitrators have exceeded their

authority, or have been guilty of misconduct in the matter.

17. That it shall be lawful for her Majesty's consul to cause to be apprehended and brought before him any British subject who may be charged with having committed any crime or offence within the dominions of the Sultan of Morocco; and such consul shall thereupon proceed with all convenient speed to inquire of the same, and for such purpose shall have power to examine on oath, or in such form and with such ceremony as the witness shall declare to be binding on his conscience, any witness who may appear before him to prove the charge; and also shall have power to compel any person, being a British subject, who may be competent to give evidence as to the guilt or innocence of the party so charged, to appear and give evidence, and to punish the wilful default of any such person to appear and give evidence, after reasonable notice of the day of the hearing of such charge, by fine or imprisonment, in like manner as is provided in article 14 of this Order, and shall examine every such witness in the presence and hearing of the party accused, and shall afford the party accused all reasonable facility for cross-examining such witness, and shall cause the deposition of every such witness to be reduced to writing, and the same to be read over, and, if necessary, explained to the party accused, together with any other evidence that may have been urged against him during the course of the inquiry, and shall require such accused party to defend himself against the charge brought against him, and, if necessary, advise him of the legal effect of any voluntary confession, and shall take the evidence of any witness whom the accused party may tender to be examined in his defence; and every witness, being a British subject, so examined as aforesaid, who shall upon any such occasion give wilfully false testimony, may be convicted of and punished for the crime of wilful and corrupt perjury; and when the case has been fully inquired into, and the innocence or guilt of the person accused has been established to the satisfaction of the consul, the consul, as the case may be, shall either discharge the party accused from custody if satisfied of his innocence, or proceed to pass sentence on him if satisfied of his guilt; and it shall be lawful for the consul, having inquired of, tried, and determined, in the manner aforesaid, any charge which may be brought before him, to award to the party convicted any amount of punishment not exceeding imprisonment for one calendar month, or a fine of 200 dollars.

18. That if the crime or offence whereof any person, being a British subject, may be accused before her Majesty's consul as aforesaid, shall appear to such consul to be of such a nature as, if proved, would not be adequately punished by the infliction of such punishment as aforesaid, it shall be lawful for such consul to summon not less than two, or not more than four, disinterested British subjects of good repute to sit with him as assessors for inquiring of, trying, and determining the charges against such person; and the consul, when he shall try any such charge with the assistance of assessors as aforesaid, shall, if he is himself convinced of the guilt of the party accused, have power to award any amount of punishment not exceeding imprisonment for twelve calendar months, or a fine of 1000 dollars; and the assessors aforesaid shall have no authority to decide on the innocence or guilt of the party accused, or on the amount of punishment to be awarded to him on conviction; but in the event of the said assessors, or any of them, dissenting from the conviction of, or from the amount of punishment awarded to, the accused party, the assessors or assessor so dissenting shall be authorised to record in the minutes of the proceedings the grounds on which they or he may so dissent, and the consul shall forthwith report to her Majesty's Chargé d'Affaires and Consul-General for Morocco the fact of such dissent, and of its having been so recorded in the minutes of the proceedings, and shall as soon as possible lay before the said Chargé d'Affaires and Consul-General copies of the whole of the depositions and proceedings, with the dissent of the assessor or assessors recorded therein; and it shall be lawful thereupon for her Majesty's said Chargé d'Affaires and Consul-General, by warrant under his hand and seal addressed to the consul, to confirm, or vary, or remit altogether, as to him may seem fit, the sentence and punishment awarded to the party accused, and such consul shall give immediate effect to the injunction of any such warrant: provided always, that in any case in which the assessor or assessors shall dissent from the conviction of, or from the amount of punishment awarded to, the accused party, it shall be lawful for her Majesty's consul to take good and sufficient bail from the accused party to appear and undergo the punishment awarded to him, provided the same or any portion thereof be confirmed by her Majesty's Chargé d'Affaires and Consul-General, which punishment so confirmed shall commence and take effect from the day on which the decision of her Majesty's said Chargé d'Affaires and Consul-General shall be notified to the party accused.

19. That it shall and may be lawful for her Majesty's consul to cause any British subject, who shall have been twice convicted before him of any crime or offence, and punished for the same, and who, after execution of the sentence of the consul, on any second conviction, shall not be able to find good and sufficient security, to the satisfaction of the consul, for his future good behaviour, or who, having been deported under any sentence, shall during such sentence return, to be sent out of the dominions of the Sultan of Morocco; and to this end the consul shall have power and authority, as soon as may be practicable after execution of the sentence on such second conviction, to send any such twice-convicted party, or any person so returning as aforesaid, to her Majesty's garrison and territory of Gibraltar, and in the meantime to detain such party in custody until a suitable opportunity for sending him out of the dominions of the Sultan of Morocco shall present itself; and any person so to be sent out of the said dominions as aforesaid shall be embarked in custody on board one of her Majesty's vessels of war, or, if there shall be no such vessel available for such purpose, then on board any British vessel bound to Gibraltar; and it shall be lawful for the commander of any of her Majesty's ships of war, or of any British vessel bound to Gibraltar, to receive any such person as aforesaid under a warrant from the consul to him addressed, and thereupon to convey such person in custody to Gibraltar as aforesaid, in the same manner as if he were a distressed British subject, unless he shall be willing and able himself to defray the expenses of his passage.

20. That in any case in which any British subject shall be accused before her Majesty's consul of the crime of arson, or housebreaking, or cutting and maiming, or stabbing or wounding, or of any assault endangering life, or of wilfully causing any bodily injury dangerous to life, or of wilful or corrupt perjury, the proceedings before the consul shall be carried on with the aid of assessors, convened in the manner aforesaid; and it shall be lawful for the consul, if to him it shall seem fit, to cause any person convicted before him of any of the crimes aforesaid, over and above any fine or imprisonment which may be awarded to such person, to be sent out of the dominions of the Sultan of Morocco for such time as to him shall seem meet, in the manner pointed out in the next preceding article of this Order, notwithstanding the crime laid to the charge of such person may be the first of which he has been convicted before the consul.

(To be continued).

To be granted, unless an Appeal be duly entered.

Sager Holden Splatt, Liverpool, sailmaker.—*James Clark*, St. Thomas the Apostle, Devonshire, tea dealer.—*William Lake*, Topsham, Devonshire, maltster.—*Richard Torring*, Plymouth, Devonshire, builder.—*John Haworth*, Shaw Clough, Rossendale, Lancashire, spinner.

Partnerships Dissolved.

Francis William Mount and *Francis Hugh Hagger*, Clement's-lane, Lombard-street, City, attornies and solicitors.—*William Warwick King* and *Francis George*, King-street, Cheapside, solicitors.

Tuesday, *Oct.* 20.

Bankrupts.

WILLIAM BUDDLE, Delamere-terrace, Paddington, Middlesex, builder, Nov. 3 at half-past 2, and Dec. 1 at 1, London: Off. Ass. Edwards; Sols. Lawrance & Co., 14, Old Jewry chambers.—Pet. f. June 16.

CHARLES MOSLEY and JOHN MARLOW MOSLEY, Catherine-street, Strand, news agents, (trading under the style or firm of Mosley & Son), Oct. 31 at 1, and Dec. 1 at 12, London: Off. Ass. Edwards; Sols. Rogerson & Ford, 31, Lincoln's-inn-fields.—Pet. f. Oct. 17.

FREDERICK COLLINS, Drury-lane, Middlesex, pawnbroker, Nov. 3 and Dec. 1 at 12, London: Off. Ass. Lee; Sol. Jaquet, 9, New-inn, Strand.—Pet. f. Oct. 17.

MELDRUM CHRISTIE, Oxford-street, Middlesex, baker, Oct. 29 at half-past 12, and Nov. 24 at half-past 11, London: Off. Ass. Bell; Sol. Holmer, 24, Bucklersbury.—Pet. f. Oct. 19.

WILLIAM ORFORD, Great Yarmouth, grocer, Oct. 29 at 11, and Dec. 3 at 12, London: Off. Ass. Bell; Sols. Sole & Co., Aldermanbury.—Pet. f. Oct. 13.

WILLIAM CARR, Bishopsgate-street Without, Middlesex, and Walworth-road, Surrey, cheesemonger, Nov. 3 at 12, and Dec. 3 at 1, London: Off. Ass. Johnson; Sol. Teague, Crown-court, Cheapside.—Pet. f. Oct. 19.

WILLIAM JOHN RODDA, Albion-villas, Tottenham-road, Kingsland, builder, Oct. 30 at 11, and Nov. 27 at half-past 1, London: Off. Ass. Whitmore; Sols. Crosley & Burn, 34, Lombard-street.—Pet. f. Oct. 19.

WILLIAM GIBBS, Worcester, soda-water manufacturer, Nov. 4 and 25 at 10, Birmingham: Off. Ass. Whitmore; Sols. Hughes, Worcester; Smith, Birmingham.—Pet. d. Oct. 8.

JOHN SLADE and JAMES TALBY VINING, Yeovil, Somersetshire, attornies, Nov. 2 and Dec. 9 at 11, Exeter: Off. Ass. Hirtzel; Sols. Stogdon, Exeter; Murley, Langport.—Pet. f. Oct. 19.

ALFRED EARNSHAW, Sheffield, hosiery dealer, Oct. 31 and Nov. 28 at 10, Sheffield: Off. Ass. Brewin; Sol. Unwin, Sheffield.—Pet. d. Oct. 17.

THOMAS MATTHEWS and JOHN MATTHEWS, Sheffield, turn-screw makers, Oct. 31 and Nov. 28 at 10, Sheffield: Off. Ass. Brewin; Sol. Broadbent, Sheffield.—Pet. d. Oct. 17.

PHILIP JONES, Newtown, Montgomeryshire, flannel manufacturer, Nov. 5 and Dec. 3 at 12, Liverpool: Off. Ass. Bird; Sols. Rogerson & Peacock, Liverpool.—Pet. f. Oct. 12.

JOHN ROWLANDS, St. Asaph, Flintshire, joiner, Nov. 3 and 23 at 11, Liverpool: Off. Ass. Morgan; Sols. Holt & Rowe, Liverpool; Wyatt & Sisson, St. Asaph.—Pet. f. Oct. 17.

ELLIS WILLIAMS, Holyhead, Anglesea, ironfounder, Nov. 6 and 27 at 12, Liverpool: Off. Ass. Turner; Sols. Lowndes & Co., Liverpool.—Pet. f. Oct. 16.

Meetings.

Samuel Adams, Ware, Hertfordshire, banker, Oct. 30 at 11, London, pr. d.—*John Hewitt* the younger, Halvergate, Norfolk, miller, Oct. 30 at 12, London, last ex.—*M. Collett*, Stanley Downton, Leonard Stanley, Gloucestershire, miller, Nov. 10, Bristol, last ex.—*Gustavus Sichel*, New Broad-st., merchant, Nov. 2 at 12, London, aud. ac.—*John H. Govett*, Dennett-road, Peckham, Surrey, builder, Nov. 9 at half-past 12, London, aud. ac.—*John F. A. Minch*, Mincing-lane, general merchant, Nov. 6 at 12, London, aud. ac.—*Thomas Warington*, Mark-lane, corn merchant, Nov. 4 at 12, London, aud. ac.—*Henry Spiller*, St. John's-wood-terrace, Regent's-park, brick merchant, Nov. 2 at 11, London, aud. ac.—*Thomas Hawley*, Blackfriars-road, Surrey; Clement's-inn-passage, Strand; King's-road, Chelsea; and Crawford-street, Marylebone, Middlesex, grocer, Nov. 4 at 11, London, aud. ac.—*Stephen Rowley*, Cambridge, fellmonger, Nov. 4 at 2, London, aud. ac.—*John D. Gordon*, Eldon-street, Finsbury, pianoforte manufacturer, Nov. 2 at half-past 11, London, aud. ac.—*Peter George Foscolo*, Dunster-court, Mincing-lane, corn merchant, Nov. 10 at 11, London, div.—*Henry Q. Andrews*, Strand, American drug merchant, Nov. 10 at half-past 11, London, div.—*George Wm. Glinister*, Spring-garden-place, Stepney, and *Wm. Joseph Glinister*, Green-street, Stepney, grocers, Nov. 10 at 12, London, div.—*Henry I. Cox*, West Ham, Essex, grocer, Nov. 10 at half-past 12, London, div.—*Wm. Rose*, Kingsland-road, Shoreditch, baker, Nov. 10 at 12, London, div.—*Thomas Keating*, St. Paul's-churchyard, druggist, Nov. 10 at 12, London, div.—*Thos. Ryder*, Old Broad-st., merchant, Nov. 10 at half-past 12, London, div.—*O. Foa*, Old Broad-street, merchant, Nov. 11 at 1, London, div.—*William Bailey* the younger, Buttesland-street, Hoxton, looking-glass maker, Nov. 11 at half-past 11, London, div.—*Frederick Morse*, Dunster-court, Mincing-lane, rice merchant, Nov. 10 at 2, London, div.—*Wm. Ogilvie Cameron*, Camomile-street, City, export oilman, Nov. 10 at half-past 11, London, div.—*Solomon Solomon*, Strand, tailor, Nov. 10 at half-past 1, London, div.—*Joseph Williams*, Rochester-terrace, Vauxhall-bridge-road, tailor, Nov. 10 at 2, London, div.—*Wm. Mitchell*, *Henry Mitchell*, and *John Mitchell*, Hoarstones, Lancashire, worsted spinners, Nov. 2 at 12, Manchester, aud. ac.; Nov. 11 at 1, div.—*Thomas Edward James*, Cowbridge, Glamorganshire, wine merchant, Nov. 26 at 11, Bristol, div.—*Wm. Fletcher Roberts*, Moreton-in-the-Marsh, Gloucestershire, apothecary. Nov. 26 at 11, Bristol, div.—*J. Parr*, Wolverhampton, Staffordshire, woollendraper, Nov. 11 at half-past 10, Birmingham, div.—*Thomas Marshall*, Hartlepool, Durham, shoemaker, Nov. 13 at half-past 12, Newcastle-upon-Tyne, div.—*William Morris*, Liverpool, grocer, Nov. 11 at 12, Liverpool, div.—*Samuel Burgess*, Wharton, Cheshire, salt manufacturer, Nov. 11 at 12, Liverpool, div.—*John Walker*, Liverpool and Rochdale, Lancashire, tobacconist, Nov. 12 at 11, Liverpool, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Swan, Leadenhall-street, merchant, Nov. 11 at 2, London.—*Castle Brangwin* the younger, Blackheath-road, Greenwich, and High-street, Deptford, Kent, grocer, Nov. 12 at 2, London.—*Thos. Danson Pruday*, Rupert-street, Haymarket, tavern keeper, Nov. 11 at 2, London.—*George William Neales*, New Oxford-street, upholsterer, Nov. 11 at 1, London.—*Robert Forster Alden*, Norwich, tinman, Nov. 16 at 11, London.—*Morris Robert Syers*, *James Walker*, and *Daniel Backhouse Syers*, Ball-alley, Lombard-street, London, and Liverpool, merchants, Nov. 11 at 11, London.—*Charles Lewton*, Maesteg, Glamorganshire, publican, Nov. 17 at 11, Bristol.—*Thos. Marshall*, Hartlepool, Durham, shoemaker, Nov. 13 at half-past 12, Newcastle-upon-Tyne.—*John Matthews* the younger, Plymouth and Stonehouse, Devonshire, statuary, Nov. 12 at 10, Plymouth.—*Samuel King*, Devonport, Devonshire, builder, Nov. 12 at 10, Plymouth.—*Jos. Foot*, Plymouth, Devonshire, builder, Nov. 12 at 10, Plymouth.—*Edmund Lillicrapp Mason*, Plymouth, Devonshire, innkeeper, Nov. 12 at 10, Plymouth.—*Owen Ellis*, Liverpool, mason, Nov. 10 at 11, Liverpool.—*Hector Melville*, Liverpool, cooper, Nov. 10 at 12, Liverpool.—*George Prevost Oxley*, Liverpool, merchant, Nov. 10 at 11, Liverpool.—*George Shearcroft*, Loug Sutton, Lincolnshire, grocer, Nov. 10 at half-past 10, Nottingham.—*John Overton Hobson*, Long Sutton, Lincolnshire, corn merchant, Nov. 10 at half-past 10, Nottingham.

To be granted, unless an Appeal be duly entered.

John Sexby, Vauxhall-walk, Lambeth, builder.—*Charles Duvall*; Crosby-row, Walworth-road, Surrey, and Queen's-buildings, Knightsbridge, Middlesex, provision merchant.—*Samuel Muddiman*, Northampton, shoe manufacturer.—*Wm. Henry Grimsdale* and *Thomas Hart Grimsdale*, Uxbridge, Middlesex, common brewers.—*Joseph Piper*, High-street and Spencer-street, Shoreditch, furnishing ironmonger.

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William Jacomb and *Frederick William Jacomb*, Huddersfield, solicitors and attornies-at-law.

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The Jurist

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THE JURIST.

LONDON, OCTOBER 31, 1857.

THE sections in the Common-law Procedure Act, 1854, which relate to the attachment of debts, (sects. 60—67), do not expressly provide for the case of the debt attached being liable to prior claims. It seems, however, tolerably clear, upon principle, that the interest of the judgment debtor in the debt is all that can be attached, and therefore that the judgment creditor must take it subject to any pre-existing charge recognised by the law. It has been said that an attachment of debts is in the nature of an execution, (see 2 Jur., N. S., part 2, p. 41); and if so, it would be subject to prior charges created by the judgment debtor. In support of this view may be cited *Hirsch* v. *Coates*, (18 C. B. 759), in which the general words of the statute were qualified, and it was held that an order for attachment of debts had no operation upon debts of which the garnishee had previously divested himself by assignment. To a like effect is the judgment of Erle, J.*, in *Watts* v. *Porter*, (3 El. & Bl. 743; 1 Jur., N. S., part 1, p. 133), approved of by the Lord Chancellor in *Beavan* v. *The Earl of Oxford*, (25 L. J., Ch., 299, 306). Erle, J., was of opinion that a judge's order charging stock with a judgment debt had not priority over a previous mortgage of an equitable interest in the same stock. And in *Whitworth* v. *Gaugain* (3 Hare, 416) it was held that a judgment creditor had not the rights of a purchaser for value without notice as against an equitable mortgagee. It may, therefore, be concluded, that a debt can be attached only to the extent of the judgment debtor's interest therein.

A more difficult question, however, has arisen* as to the effect of an attorney's specific lien for his costs upon a judgment debt which has been attached. The attorney has been said to have only a claim to the equitable interference of the Court for securing his costs in the case of settlement after judgment between the plaintiff and the defendant, and not to have a strict lien upon the judgment, (per Parke, B., in *Barker* v. *St. Quinton*, 12 M. & W. 441); but certainly in the older cases his interest is uniformly spoken of as a lien. But however this may be, and supposing, as seems to be the case, that the Courts will interfere on the attorney's behalf only in case of manifest collusion between the litigant parties, or where notice of the attorney's claim has been given to the judgment debtor before he settles with the other party, it is by no means clear, we submit, that the same limit is to be placed on the protection of the Courts towards their officers where the judgment debt has been *attached*.

This is not the case of a settlement or compromise between a plaintiff and a defendant being disturbed by the Court, but of a proceeding in invitum, in the nature of an execution against the judgment debt, affecting the interest of the judgment debtor; and in such case it would appear that the Courts should protect the attorney, holding that the interest of the judgment debtor is the amount of the debt minus the attorney's lien or claim in respect of his costs in the action; in other words, that the attorney's claim should be paramount to the attachment. Let us briefly consider the cases which most closely bear upon this subject, and see how far they confirm this opinion. In the case of bankruptcy an attorney's specific lien or claim overrides the title of the assignees to the judgment debt.

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* See also *Kennett* v. *The Westminster Improvement Commissioners*, (11 Exch. 349).

* In the case of *Walker* v. *Bartlett*, which has been before the Courts of Common Pleas and Exchequer on this point, but which we believe has been arranged without a decision by either Court.

(See *Griffin* v. *Eyles*, 1 H. Bl. 122; see also *Holmes* v. *Tutton*, 5 El. & Bl. 65; 1 Jur., N. S., part 1, p. 975). In the former case the point decided was, that the attorney has a lien on money levied by the sheriff under an execution on a judgment recovered by his client, notwithstanding the bankruptcy of the client; and, taking the attachment to be analogous to an execution, it is a strong authority in favour of the attorney's claim overriding the former. To shew that the attorney's claim was formerly considered a lien on the judgment, and that the Courts have been anxious to support it, the following cases may be referred to:—In *Turwin* v. *Gibson* (3 Atk. 720) Lord Hardwicke held that a solicitor, in consideration of his trouble and the money "in disburse" for his client, had a right to be paid out of a sum decreed to the plaintiff as the administratrix of his client, and had a lien upon it before the bond creditors of the deceased. In *Welsh* v. *Hole* (Dougl. 237) Lord Mansfield said, "An attorney has a lien on the money recovered by his client for his bill of costs. If the money come to his hands, he may retain to the amount of his bill. He may stop it in transitu, if he can lay hold of it. If he apply to the Court, they will prevent its being paid over till his demand is satisfied. I am inclined to go still further, and hold, that if the attorney give notice to the defendant not to pay till his bill should be discharged, a payment by the defendant after such notice would be in his own wrong, and like paying a debt which has been assigned after notice."

There is also a class of cases which shew, that upon applications to set off judgments the Courts would allow this to be done only subject to the attorney's claim; and this is now expressly so provided by Reg. Gen., Hil. T., 1853, r. 63. By that rule it is ordered, that "no set-off of damages or costs between parties shall be allowed, to the prejudice of the attorney's lien for costs in the particular suit against which the set-off is sought;" and the attachment of a judgment debt is very similar to a set-off of judgments, and would seem to come within the spirit of the rule. In *Mitchell* v. *Oldfield* (4 T. R. 123) an application to set off judgments was granted only on an undertaking being given to satisfy the attorney's claim. Lord Kenyon, C. J., there said, "Attornies and solicitors have a lien on all papers in their hands, and judgments recovered for their costs;" and Buller, J., said, "Though this Court have said that they will not interfere on behalf of the attorney, and prevent the plaintiff from settling his own cause without first paying the attorney's bill, yet when the adverse party against whom a judgment has been obtained applies to get rid of that judgment, the Court will take care that the attorney's bill is satisfied." (See also *Middleton* v. *Hill*, 1 Mau. & S. 240; *Marr* v. *Smith*, 4 B. & Al. 466; and *Swain* v. *Senate*, 2 N. R. 99, 101). To these may be added the following passage from Mr. Locke's book on Foreign Attachment, (p. 33):—"Money paid over to the attorney may be attached, but he is entitled to his lien on the money for the amount of his bill of costs:" (citing *Phene* v. *Watkins*, MS., 1795; see also *Westoby* v. *Day*, 2 El. & Bl. 605; 18 Jur., part 1, p. 10).

The above observations have been made in support of the attorney's specific lien or claim for costs in the action, and not of a *general* lien, which, indeed, was decided in *Hough* v. *Edwards* (1 H. & Norm. 171; 2 Jur., N. S., part 1, p. 814) not to be available against an attachment of the judgment debt. (See also *Bozon* v. *Bollond*, 4 My. & C. 354).

BRITISH JURISDICTION IN MOROCCO.

(*Concluded from p.* 416).

21. That it shall be lawful for her Majesty's consul within the dominions of the Sultan of Morocco, upon information laid before him by one or more credible witnesses that there is reasonable ground to apprehend that any British subject is about to commit a breach of the public peace, to cause such British subject to be brought before him, and to require such British subject to give sufficient security to keep the peace; and in the event of any British subject being convicted of and punished for a breach of the peace, to cause such British subject, after he shall have undergone the punishment which may have been awarded to him by the consul, to find security for his good behaviour; and in the event of any British subject who may be required as aforesaid to give sufficient security to keep the peace, or to find security for his good behaviour, being unable or wilfully omitting to do so, then and in any such case it shall be lawful for her Majesty's consul to send such British subject out of the dominions of the Sultan of Morocco, in the manner pointed out in article 19 of this Order.

22. That in all cases in which a British subject shall have been sent out of the dominions of the Sultan of Morocco, as provided in the three next preceding articles of this Order, the consul sending him out shall forthwith report such act of deportation, with the grounds of his decision thereon, to her Majesty's Chargé d'Affaires and Consul-General in Morocco.

23. That it shall be lawful for her Majesty's consul to cause to be apprehended and brought before him any British subject who may be charged with smuggling or importing into the dominions of the said Sultan any goods whereon any duty shall be charged or payable to the said Sultan, with intent to evade the payment of such duty, or any goods the importation whereof shall be prohibited; and such consul shall thereupon proceed with all convenient speed to inquire into the same, on oath or solemn affirmation, and to hear the witnesses on both sides, with like powers and in like manner in all respects as is provided by article 14 of this Order. And it shall be lawful for the consul, having inquired into and heard the said charge, to determine the same; and if he shall find the party guilty, if the charge against him shall be of importing into the said dominions prohibited goods, then to award him to pay a fine not exceeding treble the value of the said goods at the current price of the day; and if the charge shall be of smuggling or importing goods with intent to evade the payment of duty as aforesaid, then to award him to pay a fine not exceeding treble the amount of the duties leviable thereon; and in case of non-payment of any such fine or fines, to award him to be imprisoned for a period not exceeding three months; or it shall be lawful for such consul, without awarding the payment of any fine, to award that such party shall be imprisoned for a period not exceeding six months, in such place as he shall appoint: provided always, that no British subject charged only with importing prohibited goods shall be apprehended unless and until he shall have had one week's notice to appear and answer the charge, and shall have refused, failed, or omitted so to appear.

24. This article provides for revision of sentence in certain cases by the superior consular officer of the district.

25. That in cases of common assault it shall be lawful for the consul before whom the complaint is made to promote reconciliation between the parties, and to suffer compensation and amends to be made, and the proceedings thereby to be finally stayed.

* * * * * * *

27. That except as regards offences committed by

British subjects against the stipulations of any treaty between her Majesty and the Sultan of Morocco, or against any rules and regulations for the observance of the stipulations of any such treaty or convention, duly affixed and exhibited according to the provisions of article 2 of this Order, or against any rules and regulations for the peace, order, and good government of her Majesty's subjects being within the dominions of the Sultan of Morocco, no act done by a British subject within the dominions of the said Sultan shall by her Majesty's consul be deemed and taken to be a crime or misdemeanour, or offence rendering the person committing it amenable to punishment, which, if done within any part of her Majesty's dominions, would not, by a Court of justice having criminal jurisdiction in her Majesty's dominions, have been deemed and taken to be a crime or misdemeanour or offence rendering the person committing it amenable to punishment; and her Majesty is pleased to appoint, by and with the advice of her Privy Council, her Majesty's garrison and territory of Gibraltar as the place where crimes and offences committed by British subjects within the dominions of the Sultan of Morocco, which it may be expedient shall be inquired of, tried, determined, and punished within her Majesty's dominions, shall be so inquired of, tried, determined, and punished; and her Majesty's consul resident in Morocco shall have authority to cause any British subject charged with the commission of any crime or offence, the cognisance whereof may at any time appertain to him, to be sent for trial to her Majesty's said garrison and territory of Gibraltar.

28. That it shall be lawful for her Majesty's consul to cause any British subject charged with the commission of any crime or offence, the cognisance whereof may at any time appertain to him, to be sent, in any of her Majesty's ships of war, or in any British vessel, to her Majesty's garrison and territory of Gibraltar, for trial before the Supreme Court of the said garrison and territory; and it shall be lawful for the commander of any of her Majesty's ships of war, or of any British vessel, to receive any such person on board, with a warrant from the said consul addressed to the chief magistrate of police of the said garrison and territory, and thereupon to keep and detain in lawful custody, and to convey him in custody to Gibraltar, and on his arrival there to deliver him, with the said warrant, into the custody of the said chief magistrate of police, or other officer within the said garrison and territory lawfully acting as such, who, on receipt of the said warrant, and of the party therein named, shall be authorised to commit, and shall commit, such party so sent for trial to the common gaol of the said garrison and territory; and it shall be lawful for the keeper of the said common gaol to cause such party to be detained in safe and proper custody, and to be produced upon the order of the said Supreme Court; and the Supreme Court, at the sessions to be holden next after such committal, shall proceed to hear and determine the charge against such party, and to punish him for the same if found guilty, in the same manner as if the crime with which he may be charged had been committed within her Majesty's said garrison and territory of Gibraltar.

29. That her Majesty's consul, on any occasion of sending a prisoner to Gibraltar for trial, shall observe the provisions made with regard to prisoners sent for trial to a British colony, in the 6 & 7 Vict. c. 94.

30. That the Supreme Court of her Majesty's garrison and territory of Gibraltar shall have, and may exercise, concurrently with her Majesty's consul, authority and jurisdiction in regard to all suits of a civil nature between British subjects arising within any part of the dominions of the Sultan of Morocco: provided always, that the said Supreme Court shall not be bound, unless in a fit case it shall deem it right so to do, by writ of certiorari or otherwise, to debar or prohibit the consul from hearing and determining, pursuant to the provisions of the several articles of this Order, any suit of a civil nature between British subjects, or to stay the proceedings of the consul in any such matter.

31. That all fines and penalties imposed under this Order may be levied by distress and seizure and sale of ships, and of goods and chattels; and no bill of sale, mortgage, or transfer of property made by a party accused after his apprehension, or with a view to securing such party against any crime or offence committed or to be committed by him, or against the consequences thereof, shall avail to defeat any of the provisions of this order.

32. That it shall be lawful for her Majesty's consul from time to time to establish rules of practice to be observed in proceedings before him, and to make regulations for defraying the expenses of witnesses in such proceedings and the cost of criminal prosecutions, and also to establish rates and scales of fees to be taken in regard to civil suits heard and determined before the said consul.

* * * * * *

34. That it shall be lawful for her Majesty's consul to grant probate of will or letters of administration to the intestate estate of any British subject, or any native of a state or place under British protection, who shall die and leave property within the dominions of the Sultan of Morocco; and if such probate or letters of administration shall not be applied for within thirty days after the death of the deceased person, it shall be lawful for the consul to administer to the estate of such person, and for so doing to reserve to himself out of the proceeds of such estate a commission not exceeding *2l. 10s.* per cent. on the account thereof.

35. That a register shall be kept by her Majesty's consul of all British subjects residing within the dominions of the Sultan of Morocco. * * * *

36. That her Majesty's consul shall and may exercise all or any of the powers which, by any act or acts of the Imperial Parliament for the regulation of merchant seamen, or for the regulation of the mercantile marine, may now or at any time hereafter be exercised by any justice or justices of the peace within her Majesty's dominions.

* * * * * *

38. That every action or suit brought against her Majesty's consul by reason of anything done under the authority of this Order shall be commenced within six calendar months next after the doing thereof, and not otherwise; and the defendant in every such action or suit shall be entitled to the benefit of the provisions made with respect to defendants in actions or suits in the said act 6 & 7 Vict. c. 94.

* * * * * *

40. That this Order shall take effect on and after the 1st November now next ensuing.

Court Papers.

COMMON-LAW CAUSE LISTS, MICHAELMAS TERM, 1857.

Court of Queen's Bench.

NEW TRIALS.

REMAINING UNDETERMINED AT THE END OF THE SITTINGS AFTER TRINITY TERM, 1857.

FOR ARGUMENT.

Moved Easter Term, 1857.

North'land—Heald *v.* Pickersgill

Tried during Term.

Midd.—Tennant *v.* Field.

Moved Trin. Term, 1857.

Midd.—Chapman *v.* Van Toll

" Van Toll *v.* Chapman

(The case of Power & an. *v.* Burchnall to come on for argument with these rules)

Lond.—Trevis v. South-eastern Railway Co.
,, Ridear v. Salisbury
,, Heinekey v. Earl
,, Elder v. Beaumont (Demurrer and this rule to come on together)

Tried during Term.

Midd.—Peyron v. Kennard
,, Munro v. Butt
,, Randle v. Gould
,, Read v. Plumer
,, Power v. Burchnall.

SPECIAL CASES.

FOR MICHAELMAS TERM, 1857.

Those marked thus * are Special Cases, and thus † Demurrers.

FOR JUDGMENT.

†Reg. v. Eton College & an.

FOR ARGUMENT.

†Chamberlaine v. Willoughby (Stands for arrangement)
†London Dock Co. v. Sinnott
†Elder v. Beaumont
*Goodwin v. Noble & ors.
Silvester v. Hampson (Appeal from County Court at Bolton, Lancashire)
*North Staffordshire Railway Co. v. London and North-western Railway Co.
†Lazard v. Spartali
*Benorni & Wife v. Backhouse
*Wallas v. Same
*Longstaff v. Same
*Robinson v. Same
*Thompson v. Same
†Jones & ors. v. Swayne & an.
Wadlow v. Rides (Appeal from County Court of Derby)
†Ollivier & an. v. Lovell
†Cornill v. Hudson (to 4th plea)
†Cornill v. Hudson (to replication to 7th plea).

ENLARGED RULES

FOR MICHAELMAS TERM, 1857.

First Day.

Rose v. Caldwell
In re Padmore
Ex parte Greenwood
Reg. v. Inhabitants of the Township of Royton
Same v. Mayor, &c. Liverpool
Same v. Arnould (Inhabitants of East Hagbourn)
Reg. v. Arnould (Inhabitants of West Hagbourn)
Same v. Llynvi Valley Railway Co.

Last day but one of Term, Tuesday, Nov. 24.

Reg. v. Guardians of the Poor of the City of London Union.

CROWN PAPER, MICHAELMAS TERM, 1857.

Staffordshire ..	Reg. v.	Bourne.
Surrey	———	Board of Works for the District of St. Olave, Southwark.
Norwich......	———	Snowden.
Middlesex	———	Royal Medical Society of London.
Derbyshire....	———	Wake.
Portsmouth ...	———	Stewart.
Same	———	Edwards.
Same	———	Lake.
Same	———	Stainsby.
Same	———	Breton.
Same	———	Foster.
Oxfordshire ..	———	Woods.
Cumberland ..	———	Howard.
Glamorganshire	———	Taff Vale Railway Company.
Same	———	Same.
Dover	———	Richardson.
Hampshire....	———	Padwick.
Staffordshire ..	Walker v. Reg. (in error).	
Cambridgeshire	Reg. v. Inhabs. of the Parish of Hormingsea.	

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Court of Common Pleas.

NEW TRIALS.

EASTER TERM, 1857.

Lond.—Last v. Edwards
Kent—Neyler v. Passfield
Midd.—King v. Accumulative Fund and General Assurance Co.
Midd.—Horlor v. Carpenter
,, Mathews v. Feuillan

TRINITY TERM, 1857.

Midd.—Bennett v. Herring.

DEMURRER PAPER.

Those marked thus † are Demurrers.

Monday .... Nov.	2	Motions in arrest of judgment.
Tuesday	3	
Wednesday	4	
Thursday	5	
Wednesday......	11	Special arguments.

†Surr v. Lee
Carpenter v. Parker
Bedford v. Warden & Society of the Royal Town of Sutton Coldfield
Weaver v. Joule (County Court Appeal)
Silvester v. Bedford
Poppleton v. Buchanan
Egerton v. Massey
Powis v. Butler
Fry v. Russell

Friday, Nov. 13.

†Tabor v. Edwards.

ENLARGED RULES.

First Day.

Nicholson v. Great Western Railway Co.

Sixth Day.

Baxendale v. North Devon Railway Co.
Harris v. Cockermouth and Workington Railway Co.
Moy v. Eastern Counties Railway Co.
Walton v. Whittaker (Until proceedings in Chancery are disposed of)
Walker v. Bartlett (Until action in Exchequer is disposed of).

CUR. ADV. VULT.

Simmonds v. Tayler
Roberts v. Eberhardt
Law v. Ranor.

◆

Court of Exchequer.

SITTINGS—MICHAELMAS TERM, 1857.

Days in Term.		*Banc.*
Monday .... Nov.	2	Motions, Peremptory Paper, and Motions.
Tuesday.........	3	Errors, Peremptory Paper, & Motions.
Wednesday......	4	....
Thursday	5	....
Friday	6	....
Saturday	7	....
Monday	9	Special Paper.—Lord Mayor sworn.
Tuesday.........	10	....
Wednesday......	11	Special Paper.
Thursday	12	Sheriffs nominated.
Friday	13	....
Saturday........	14	Criminal Appeals.
Monday	16	Special Paper.
Tuesday.........	17	....
Wednesday......	18	Special Paper.
Thursday.......	19	....
Friday	20	....
Saturday	21	....
Monday.........	23	....
Tuesday.........	24	....
Wednesday......	25	....

Days in Term.		*Nisi Prius.*
Monday ...... Nov.	2	Middlesex, first Sitting.
Wednesday........	11	London, first Sitting.
Friday	13	Middlesex, second Sitting.
Wednesday........	18	London, second Sitting.
Friday	20	Middlesex, third Sitting.

NEW TRIALS.

FOR JUDGMENT.

Midd.—Hills v. London Gas-light Co.
Glo'ster—Holles v. Marshall

FOR ARGUMENT.

Lond.—Bovill v. Pimm
,, Wyatt v. Dethick
Midd.—Abbott v. Fearey
,, Evans v. Wright.

SPECIAL PAPER.

Those marked thus * are Special Cases, and thus † Demurrers.

FOR ARGUMENT.

†Brewer v. Dimmack (Pt. hd., standing for arrangement)
*Barstow v. Reynolds (Pt. hd., to stand over until case in Exch. Cham. is disposed of)
*Walker v. Goe (To stand over until same points in Exch. Cham. are disposed of)
†Kindersley v. Grey
†Martin v. Meredith (To stand over until issues in fact are tried).

APPEALS.

FOR JUDGMENT.

Muggleton v. Barnett
Gibbs v. Trustees of the Liverpool Docks
Marriage v. Eastern Counties Railway Co. and London & Blackwall Railway Co.

Anderson, Manchester, joiners.—*John Dickson*, Bread-street, London, warehouseman.—*Robt. Bishop*, Vere-street, Oxford-street, hotel keeper.—*G. Lashmar*, Brighton, seed crusher.—*John Banyard*, Shoreham, Sussex, brewer.—*W. A. Jones*, Rose-terrace, West Brompton, Middlesex, tea dealer.—*Henry Bunny*, Newbury, Berkshire, brickmaker.—*R. H. Obbard*, Old-street-road, Shoreditch, lead merchant.—*Wm. F. Wallington*, Oxford, tailor.—*Henry I. Cox*, Stratford, grocer.—*Charles H. Collins*, Winchester-buildings, Southwark-bridge-road, Southwark, merchant.—*Henry Holland*, Leyland, Lancashire, builder.—*James Wood*, Manchester, cheese factor.

TUESDAY, *Oct.* 27.

BANKRUPTS.

DAVID MANDELBAUM, Minories, London, importer of foreign goods, Nov. 7 and Dec. 8 at 12, London: Off. Ass. Stansfeld; Sols. Lloyd & Rule, 26, Milk-street, London.—Pet. f. Oct. 21.

ISAAC ROSE, Tooley-street, Southwark, jeweller, Nov. 7 and Dec. 8 at half-past 12, London: Off. Ass. Graham; Sols. Wire & Child, St. Swithin's-lane.—Pet. f. Oct. 26.

Sir SAMUEL HANCOCK, Knight, Emmetts, near Eden Bridge, Kent, cattle dealer, and Halkin-street West, Belgrave-square, Middlesex, chemist, (trading in co-partnership with Charles Hancock, under the firm of Williams & Co.), Nov. 6 at half-past 12, and Dec. 10 at 1, London: Off. Ass. Bell; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. Oct. 26.

BENJAMIN HAYDEN, Bermondsey-street, Bermondsey, Surrey, linendraper, Nov. 6 at 11, and Dec. 4 at half-past 11, London: Off. Ass. Bell; Sol. Edwards, 15, Coleman-street, London.—Pet. f. Oct. 24.

THOMAS SOMMERVILLE, Garden-road, St. John's-wood, Middlesex, nurseryman, Nov. 6 and Dec. 4 at 12, London: Off. Ass. Johnson; Sol. Oldershaw, St. Swithin's-lane.—Pet. f. Oct. 24.

JOHN ROLFE the younger, Leadenhall-street, London, tailor, Nov. 5 at 1, and Dec. 3 at half-past 11, London: Off. Ass. Bell; Sols. Morris & Co., Moorgate-street-chambers.—Pet. f. Oct. 23.

JOHN BENJAMIN LINGS and JOHN LINGS, High-street, Southwark, cheesemongers, (trading under the style or firm of Lings & Son), Nov. 6 and Dec. 8 at 12, London: Off. Ass. Lee; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, London.—Pet. f. Oct. 16.

HENRY INGALL, Crutched-friars, London, wine merchant, Nov. 6 at half-past 2, and Dec. 1 at 2, London: Off. Ass. Edwards; Sols. Cotterill & Sons, 32, Throgmorton-street, London.—Pet. f. Oct. 23.

JEREMIAH SELF, Bishop's Waltham, Southampton, innkeeper, Nov. 6 at 2, London: Off. Ass. Lee; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. Oct. 23.

PATRICK MONAGHAN, Wolverhampton, Staffordshire, newspaper proprietor, Nov. 6 and 26 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Neve, Wolverhampton; Hodgson & Allen, Birmingham.—Pet. d. Oct. 24.

WILLIAM KERBY, Nottingham, contractor, Nov. 10 and Dec. 1 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Sollory, Nottingham; Reece, Birmingham.—Pet. d. Oct. 24.

DAVID OLIVER, Grange Mill, Kimberworth, Yorkshire, miller, Nov. 7 and Dec. 5 at 10, Sheffield: Off. Ass. Brewin; Sol. Broadbent, Sheffield.—Pet. d. Oct. 17.

JOHN WILKINSON, Warrington, Lancashire, grocer, Nov. 6 and 27 at 1, Manchester: Off. Ass. Hernaman; Sols. D. & R. Evans, Liverpool; Sale & Co., Manchester.—Pet. f. Oct. 12.

JOSEPH WOOD, Salford, Lancashire, timber merchant, Nov. 9 and 30 at 11, Manchester: Off. Ass. Hernaman; Sol. Heath, Manchester.—Pet. f. Oct. 22.

JOSHUA NICHOLSON, Hexham, Northumberland, butcher, Nov. 6 at 11, and Dec. 8 at 1, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Batty, Hexham; Lowes, Haydon Bridge; Watson, Newcastle-upon-Tyne.—Pet. f. Oct. 21.

MEETINGS.

W. Congreve, Spalding, Lincolnshire, corn merchant, Nov. 17 at half-past 10, Nottingham, last ex.—*Alice Gordon*, Sunderland, Durham, shipowner, Nov. 10 at half-past 12, Newcastle-upon-Tyne, last ex.—*Henry Apthorp Bentham*, Sunderland, Durham, shipowner, Nov. 10 at half-past 12, Newcastle-upon-Tyne, last ex.—*George Wm. Neales*, New Oxford-street, upholsterer, Nov. 11 at 1, London, aud. ac.—*William Brown*, Ramsgate, Kent, painter, Nov. 18 at 11, London, aud. ac.; Nov. 19 at 12, div.—*Egbert Griffiths*, Fenchurch-st., City, wine merchant, Nov. 9 at 11, London, aud. ac.; Nov. 19 at 2, div.—*Christopher Bancks*, Liverpool, shipchandler, Nov. 10 at 12, Liverpool, aud. ac.—*John Farr*, Bristol, ironmonger, Nov. 19 at 11, Bristol, aud. ac.—*James Buxton*, Rochdale, Lancashire, cotton spinner, Nov. 6 at half-past 1, Manchester, aud. ac.—*Samuel Armson*, Walbrook Coseley, Sedgley, Staffordshire, builder, Nov. 12 at half-past 11, Birmingham, aud. ac.—*James Armstrong*, Berwick-upon-Tweed, linendraper, Nov. 10 at 12, Newcastle-upon-Tyne, aud. ac.—*Henry Wm. Bund Smallpiece* and *Henry Wm. Smallpiece*, Guildford, Surrey, and Aldershott, Hampshire, curriers, Nov. 18 at 12, London, div. joint est., and div. sep. est. of *Henry Wm. Bund Smallpiece.*—*Leah Isaacs*, Piccadilly, cigar dealer, Nov. 18 at 1, London, div.—*John Walter Gray*, Bishop's Waltham, Southampton, agent, Nov. 19 at half-past 1, London, div.—*Charles Budden*, Basingstoke, Southampton, tailor, Nov. 19 at half-past 11, London, div.—*John Dockree*, Percival-street, Goswell-street, wine merchant, Nov. 19 at half-past 12, London, div.—*Henry Simpson*, Ipswich, Suffolk, butcher, Nov. 18 at 11, London, div.—*Charles Henry Harben*, Goulstone-street, High-street, Whitechapel, and Carlton-hill-villas, Camden-road, Holloway, wholesale cheesemonger, Nov. 20 at half-past 11, London, div.—*Wm. Randall*, Maidstone, Kent, hotel keeper, Nov. 18 at half-past 11, London, div.—*Charles Rust*, Surrey-place, Old Kent-road, Surrey, cheesemonger, Nov. 20 at half-past 1, London, div.—*John Peter M'Morland Greig*, Bartlett's-buildings, Holborn, and Wheatsheaf-yard, Farringdon-street, cabinet maker, Nov. 20 at 11, London, div.—*George Tilley*, Walton-on-Thames, Surrey, brewer, Nov. 20 at 2, London, div.—*Morris Moss*, Somers-place, New-road, St. Pancras, coach broker, Nov. 20 at 12, London, div.—*George Gittens*, Hart-street, Grosvenor-square, ironmonger, Nov. 17 at 12, London, div.—*James Savage* the elder, *Charles John Savage*, and *James Savage* the younger, Noble-street, City, shirt manufacturers, Nov. 17 at 11, London, div.—*Samuel Muddiman*, Northampton, shoe manufacturer, Nov. 17 at 11, London, div.—*Joseph White*, East Cowes, Isle of Wight, shipbuilder, Nov. 17 at 2, London, div.—*James Bugbee*, Vincent-square, Westminster, contractor, Nov. 17 at 12, London, div.—*J. Brake* the younger, Middleton, Northamptonshire, coal merchant, Nov. 18 at 1, London, div.—*Frederick James Utting*, Wisbeach, Isle of Ely, Cambridgeshire, ironfounder, Nov. 17 at 2, London, fin. div.—*James Lord*, Millgate, Spotland, Rochdale, Lancashire, cotton spinner, Nov. 12 at 1, Manchester, aud. ac.; Nov. 18 at 12, div.—*George Caulton*, Radford, Nottinghamshire, common brewer, Dec. 15 at half-past 10, Nottingham, aud. ac. and div.—*John Overton Hobson*, Long Sutton, Lincolnshire, corn merchant, Nov. 24 at half-past 10, Nottingham, aud. ac. and div.—*Jos. Gelsthorp*, Nottingham, builder, Nov. 24 at half-past 10, Nottingham, aud. ac. and div.—*Wm. Reynolds*, Pontypridd, Glamorganshire, draper, Nov. 19 at 11, Bristol, div.—*Ebenezer Talbott* and *Samuel Grice*, Newarn, Lydney, Gloucestershire, ironfounders, Nov. 19 at 11, Bristol, div.—*W. Jopling*, Wolsingham, Durham, linendraper, Nov. 20 at 12, Newcastle-upon-Tyne, div.—*William Ridley Carr* and *Henry Fred. Scott*, Wallsend, Northumberland, iron manufacturers, Nov. 19 at 12, Newcastle-upon-Tyne, div. joint est.—*Richard Blundell*, Liverpool, distiller, Nov. 17 at 11, Liverpool, div.—*Henry Tristram*, Liverpool, broker, Nov. 18 at 11, Liverpool, div.—*Richard Blundell*, Hooton, Cheshire, banker, Nov. 17 at 11, Liverpool, div.—*Anthony Marsden* and *William Marsden*, High-st., Islington, shawl warehousemen, Nov. 20 at 1, London, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Frederick Hofmann, Herbert-street, New North-road, merchant, Nov. 17 at half-past 12, London.—*John Ince*, Eaton-terrace, Pimlico, surgeon, Nov. 17 at 11, London.—*Leah Isaacs*, Piccadilly, cigar dealer, Nov. 18 at 1, London.

PETITION ANNULLED.

Richard Gale, Skirmett, Hambleden, Buckinghamshire, grocer.

THE PROFESSION MAY SAVE 7*s.* IN THE POUND BY PURCHASING THEIR STATIONERY AT

PARTRIDGE & COZENS, LAW AND GENERAL STATIONERS,

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THE JURIST.

LONDON, NOVEMBER 7, 1857.

AMONG the numerous distinctions in the English law few perhaps will stand the test of a candid examination worse than that which, so little to the credit of our jurisprudence and Legislature, has so long existed between specialty debts—that is to say, debts under seal—and simple contract debts—that is to say, debts not under seal. There is no valid reason for the priority given to specialty debts over debts by simple contract in the administration of the legal assets of a deceased person, for no one can seriously contend that the mere affixing of a bit of sealing-wax impressed with a seal, or something supposed to represent a seal, ought to have any such effect. It is a distinction, moreover, not existing, we believe, in any other country, and it constitutes one of the differences between our law and that of Scotland which it would be well at once to abolish.

Courts of equity, as far as they have had it in their power, have endeavoured to put debts by specialty and debts by simple contract upon an equality, but they were only enabled to do this with respect to what are termed "equitable assets." The Legislature, however, and recently the Courts of equity, have done much to limit the extent of the property which would formerly have been considered equitable assets. There is no doubt that where land is either charged with or devised upon trust for payment of debts, all debts not being or constituting specific liens upon the land will be payable pari passu, it being rendered equitable assets.

In former times, however, Courts of equity seem to have been inclined to construe, except when prevented by the Legislature, all equitable property to be equitable assets. Thus, where a person mortgaged an estate in fee, the equity of redemption was considered equitable assets. (See *Plunkett* v. *Penson*, 2 Atk. 294). It is true that when a trust estate descended upon an heir-at-law, that was legal assets; but this depended upon the 29 Car. 2, c. 3, s. 10, which gave to a specialty creditor his remedy at law by an action of debt against the heir of the obligor, while it did not extend the same remedy as against a mortgagee in fee of a trust estate. Sir J. Romilly's Act, however, has made the equity of redemption of a mortgage in fee legal assets. (See *Foster* v. *Handley*, 1 Sim., N. S., 200; 15 Jur., part 1, p. 73).

Considerable discussion has taken place as to whether the equity of redemption of a term of years is to be considered as legal or equitable assets. In the case of *The Creditors of Sir Charles Cox*, (3 P. Wms. 341), Sir J. Jekyll, M. R., held, that a mere right of redemption of a term being barely an equitable interest, it was reasonable to construe it equitable assets, and consequently distributable amongst all the creditors pro ratâ, without having respect to the degree or quality of their debts, *all debts being in a conscientious regard equal, and equality the highest equity*. The doctrine laid down in this case was followed or approved of in *Hartwell* v. *Chitters*, (Amb. 308); *Clay* v. *Willis*, (1 B. & Cr. 372); and *Barker* v. *May*, (9 B. & Cr. 493). In a note, however, to the case of *The Creditors of Sir Charles Cox*, (3 P. Wms. 344), Mr. Cox, the learned editor of these Reports, says that the point supposed to have been determined was not in fact determined in that case, and cites several old authorities to shew that "it had been decided that chattels, whether real or personal, mortgaged or pledged by the testator and redeemed by the executor, shall be assets *at law* in the hands of the executor, for so much as they are worth beyond the sum paid for their redemption, though recoverable only in equity."

The fact appears to be, that Lord Hardwicke and Sir J. Jekyll, feeling strongly that the rule of law which gives priority to specialty creditors was unjust, had endeavoured, contrary to the old authorities, to lay down as a general rule that whatever property was recoverable only in equity should be considered as equitable assets. The recent authorities, however, lay down as a general principle, that in determining whether assets are legal or equitable, the question is not whether the testator's interest was legal or equitable, but whether a creditor of the testator, seeking to get paid out of such assets, could obtain payment thereout from a Court of law, or could only obtain it through a Court of equity: that a Court of *law* would treat as assets every item of property that came to the hands of an executor which he had recovered, or had a right to recover, merely virtute officii, i. e. which he would have a right to recover if the testator had merely appointed him executor, without saying anything about his property, or the application thereof. These are the principles laid down by Sir R. T. Kindersley, V. C., in accordance with which he decided, in the recent case of *Cook* v. *Gregson*, (3 Drew. 547), that the equity of redemption of a sum of money charged on land is legal assets in the hands of the executor. His Honor observed, that if there were nothing in the will but the appointment of executor, the executor would be entitled, simply virtute officii, to ask for redemption—that a mere administrator might demand it; and if so, it appeared to him that the general principle, as he had stated it, applied to an equity of redemption of a chattel interest, whether real or personal, and that such an equity of redemption would be legal assets. In that case it was an equity of redemption of an equitable charge of a sum of money on real estate, which the executor had clearly, in his opinion, a right, in his mere character of executor, first to redeem, and then enforce payment of. (See also *Shee* v. *French*, 3 Drew. 716).

Although it was not necessary in *Cook* v. *Gregson* (3 Drew. 547) for the Vice-Chancellor to determine whether the case of *The Creditors of Sir Charles Cox*, (3 P. Wms. 341), and that class of cases, were rightly decided, his Honor nevertheless observed, that, if he were called upon so to do, he should say that in his opinion those cases were not sustainable, and ought not at this day to be followed. We may therefore conclude that in all probability, should the point have to be decided, the equity of redemption of a term of years would now be considered as legal assets.

In fact, it is difficult to say that any property of a testator would be considered as equitable assets except land, which he may either have charged with or devised upon trust for payment of his debts. And what can be more absurd, if specialty debts really ought in justice to be paid before simple contract debts in the administration of assets, to allow the debtor by his will, as to his landed property, to put them both upon an equality?

If the principle of the Court of equity is right which denies priority to simple contract debts, it is much to be regretted that the Legislature does not in all cases make debts by specialty and simple contract, as is the case in bankruptcy and insolvency, payable pari passu. It would thereby put an end to much litigation, which often arises first in determining whether a debt is a debt by specialty or by simple contract, and lastly in determining the still vexata quæstio, "what are to be considered equitable and what legal assets?"

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Decisions upon that branch of the law which relates to patents are of peculiar interest, not merely to the lawyer, but to the man of science, and we propose to call attention to some of the more recent cases upon the subject.

One of the most important principles which may be deduced from several of these cases is, that upon an agreement for the purchase of a patent there is no implied warranty on the part of the vendor, whether he be the inventor or not, that it is of any public utility, or that it is new or of any value whatever. A patent in this respect is treated as analogous to a specific chattel, and therefore, if the subject-matter be that which the purchaser agrees to buy, viz. a patent for the supposed invention, he cannot, in the absence of an express warranty or of fraud, refuse to pay the purchase money upon the ground that the patent is worthless, or that the vendor had no title. (*Morley* v. *Attenborough*, 3 Exch. 500). The doctrine of caveat emptor applies equally to both. Thus in *Hall* v. *Conder and Another* (3 Jur., N. S., part 1, p. 963) the plaintiff had obtained a patent for a method of preventing boiler explosions, and had agreed to sell one-half of it to the defendant for 2500*l*. In an action for the amount it was held in the Common Pleas, and afterwards affirmed in the Exchequer Chamber, that it was no answer to allege that the invention was wholly worthless, and of no public utility, and not new, and that the plaintiff was not the true and first inventor.

A similar point was decided in *Lawes* v. *Purser*, (3 Jur., N. S., part 1, p. 182; 26 L. J., Q. B., 25); *Smith* v. *Neale*, (3 Jur., N. S., part 1, p. 516; 26 L. J., C. P., 143); and *Jones* v. *Lees*, (1 H. & Norm. 189; 2 Jur., N. S., part 1, p. 645).

There is an important decision upon the effect of notice of objections to a patent in *Chollett* v. *Hoffman*, (3 Jur., N. S., part 1, p. 935). By the 15 & 16 Vict. c. 83, s. 41, in an action for the infringement of letters-patent, the defendant must deliver with his pleas particulars of any objections on which he means to rely at the trial in support of his pleas, and at the trial no evidence is to be allowed to be given of any objection impeaching the validity of such letters-patent which is not contained in such particulars. The declaration in this case alleged, that by indenture between the inventor and the plaintiff, letters-patent were duly assigned to the plaintiff. The plea denied the assignment, and it was held that the defendant might shew that the assignment was not registered pursuant to sect. 35 of the above statute; and this, although his notice of objection made no mention of the assignment, because the provisions of such statute, as well as those of the 5 & 6 Will. 4, c. 83, were confined to notices of objections affecting the validity of the patent itself. It was also held that the issue upon the due assignment involved not merely the execution of the indenture, but also such an assignment and registration thereof as entitled the plaintiff to maintain his action as the sole and exclusive proprietor of the patent.

If it is considered that the particulars either of breaches or of objections are too vague, application should be made to a judge at chambers for better particulars, as no complaint of their vagueness or uncertainty will avail at the trial. (*Chollett* v. *Hoffman*, supra; *Hull* v. *Bollard*, 1 H. & Norm. 134; 25 L. J., Ex., 304).

ATTACHMENT OF DEBTS.

The case of *Sympson* v. *Prothero* (26 L. J., Ch., 671) bears upon the subject which we discussed in our last number. In that case the plaintiffs, who were attornies, sought to establish a lien upon a sum of money which the Court had ordered to be paid to their client, but which had been attached to answer a judgment debt under on order of a common-law judge. The plaintiffs had acted as attornies for their client in an action, and also in a suit to restrain that action, and ultimately in that suit the sum of 600*l*. was ordered to be paid to their client by the opposite party, to whom the attornies gave notice that they claimed a lien on such sum in respect of their costs. After such notice the 600*l*. was attached to answer a larger debt, and it was contended on behalf of the judgment creditor that he had a prior title, and also that a solicitor had not a lien on a fund recovered in a suit in equity for his costs in an action at law. Sir W. P. Wood, V. C., however, upheld the lien, and in delivering judgment said, "I think that this money was recovered by the exertions of the plaintiffs; they are entitled to a lien upon it for their costs, and I do not see how the subsequent charging order can affect that lien. Some question might have arisen if no notice of the lien had been served. . . . . The principle upon which I apprehend the Court should proceed in these transactions is, to consider how the fund has been obtained; and if you find that it has been recovered by the exertions of the party claiming the lien, it is but right that he should have his reward out of the fruits of his exertions."

REGULATIONS

To be observed in the Conduct of Business at the Chambers of the Master of the Rolls and the Vice-Chancellors, by order of the Right Hon. Sir John Romilly, Master of the Rolls, the Hon. the Vice-Chancellor Sir Richard Torin Kindersley, the Hon. the Vice-Chancellor Sir John Stuart, and the Hon. the Vice-Chancellor Sir William Page Wood.—This 8th day of August, 1857*.

I. Summonses are not to be altered after they are sealed, except upon application at chambers, and any alterations then made will be marked with the seal of such chambers.

II. Upon applications for time to answer, a printed copy of the bill and the interrogatories to be answered are to be produced.

III. Whenever any matter is adjourned from the court to chambers, or any directions are given in court to be acted upon at chambers, whether upon a matter adjourned into court from chambers or upon any other occasion, without an order being drawn up, a note signed by the registrar, stating for what purpose such matter is adjourned to chambers, or the directions given, is to be procured from the registrar and left at chambers.

IV. In drawing up decrees and orders to be left at chambers the solicitors are to take care that every account, inquiry, sale, direction to appoint receiver, and other direction to be answered at chambers, is numbered consecutively, according to the form set forth in the Schedule (C.) referred to in the General Order No. 8 of the 16th October, 1852, and that the other directions are not numbered.

V. At the same time that any decree or order made in a suit instituted by bill or claim is left at chambers, a print of the bill or claim is to be left.

VI. A note stating the names of the solicitors for all the parties, and shewing for which of the parties such solicitors are concerned, is to be left at chambers with every decree or order.

VII. For the purpose of procuring the direction of the judge as to the manner of serving notice of a decree or order, pursuant to the 5th General Order of the 1st June, 1854,

The plaintiff is to make an ex parte application by summons, and thereupon to shew by affidavit, as far as he is able—

1. *With respect to infants:*
   The ages of the infants.
   Whether they have any parents or testamentary guardians, or guardians appointed by the Court of Chancery.
   Where and under whose care the infants are residing, at whose expense they are maintained, and in case they have no father or guardian, who are their nearest relations.
   And that the parents, guardians, relations, or persons upon whom it is proposed to serve the notice have no interest in the matters in question, or if they have, the nature of such interest, and that it is not adverse to the interests of the infants.
2. *With respect to persons of unsound mind not found so by inquisition:*
   Where and under whose care such persons are residing, and at whose expense they are maintained.
   Who are their nearest relations, and that such relations, or person upon whom it is proposed to serve the notice, have no interest in the matters in question, or if they have, the nature of such interest, and that it is not adverse to the interest of the persons of unsound mind.

VIII. A copy of every certificate, by a record and writ clerk, of the entry of a memorandum of service of notice of a decree or order, and of every order giving liberty to a person served with such notice to attend the proceedings, certified by the solicitor, is to be left at chambers.

IX. Upon the notice of a claim having been entered at chambers by a creditor or other claimant served upon the solicitors in the cause, the number of the entry of the claim is to be stated.

X. Every alteration in an account verified by affidavit to be left at chambers is to be marked with the initials of the commissioner or officer before whom the affidavit is sworn, and such alterations are not to be made by erasures with the knife or other instrument.

XI. Accounts, extracts from parish registers, particulars of creditors' debts, and other documents referred to by affidavit, are not to be annexed to the affidavit, or referred to in the affidavit as annexed, but are to be referred to as exhibits.

XII. Every certificate on an exhibit referred to in an affidavit signed by the commissioner or officer before whom the affidavit is sworn must have the short title of the cause or matter.

XIII. Affidavits for the purpose of enabling the judge to fix reserved bids are to state the value of the property, by reference to an exhibit containing such value, so that the value may not be disclosed by the affidavit when filed.

XIV. As soon as particulars and conditions of sale settled at chambers have been printed, two prints thereof, certified by the solicitor to be correct prints of the particulars and conditions settled at the judges' chambers, are to be left at chambers.

XV. An office copy of the affidavit of the person appointed to sell, of the result of the sale, with the bidding paper and particulars therein referred to, are to be left at chambers at least one clear day before the day appointed for settling the certificate of the result of the sale.

XVI. Receivers' accounts are to be delivered at chambers on or before the day appointed for that purpose, and in default the receiver will be liable to the consequences imposed by the General Order of the 23rd April, 1796.

XVII. All accounts, copies, and papers left at chambers are to be written upon foolscap paper bookwise, unless the nature of the document renders it impracticable to do so.

XVIII. Where any cause originating in chambers shall, at the original or any subsequent hearing thereof, have been adjourned for further consideration, such cause may, after the expiration of eight days, and within fourteen days from the filing of the certificate of the chief clerk of the judge to whose court the cause is attached, be brought on for further consideration by a summons to be taken out by the plaintiff or party having the conduct of the cause, and after the expiration of such fourteen days by a summons to be taken out by any other party; and such summons is to be in the form prescribed by the Order No. 1 of the 16th October, 1852, and set forth in the Schedule (A.) thereto; and the object of the application may be stated as follows:—"That this cause, the further consideration whereof was adjourned by the order of the —— day of ——, 185—, may be further considered."

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* The above rules, although dated the 8th August last, were not communicated to the profession or the public before the 28th ultimo.

This summons is to be served six clear days before the return.

XIX. Upon applications for the appointment of guardians of infants and allowance for maintenance the evidence is to shew—

1. The ages of the infants.
2. The nature and amount of the infants' fortunes and incomes.
3. What relations the infants have.

XX. Upon applications to obtain the sanction of the Court to infants making settlements on marriage, under the act of the 18 & 19 Vict. c. 43, evidence is to be produced to shew—

1. The age of the infant.
2. Whether the infant has any parents or guardians.
3. With whom or under whose care the infant is living, and if the infant has no parents or guardians, what near relations the infant has.
4. The rank and position in life of the infant and parents.
5. What the infant's property and fortune consists of.
6. The age, rank, and position in life of the person to whom the infant is about to be married.
7. What property, fortune, and income such person has.
8. The fitness of the proposed trustees, and their consent to act.

The proposals for the settlement of the property of the infant, and of the person to whom such infant is proposed to be married, are to be submitted to the judge.

XXI. For the purpose of procuring the appointment of a guardian to infants under the act of Parliament of the 19 & 20 Vict. c. 120, and the 10th General Order of the 15th November, 1856,

A summons should be taken out in the names of the infants by a next friend, in the form used for originating proceedings in chambers, intituled in the same manner as the petition or intended petition—that ——, or some other proper person or persons, may be appointed guardian or guardians of the said infants, for the purpose of making an application on behalf of the said infants [*or*, consenting on behalf of the said infants to an application] to the Court under the provisions of the above act. In case the application to the Court is to be made on behalf of the infants, the guardian must be appointed before the petition is presented. If the guardian is to consent to an application, the guardian may be appointed either before or after the petition is presented.

Upon the application to appoint such guardian the following evidence is to be adduced:—

1. The age of the infant.
2. Whether he has any parent, testamentary guardian, or guardian appointed by the Court of Chancery.
3. Where, and under whose care, the infant is residing, and at whose expense he is maintained.
4. In what way the proposed guardian is connected with the infant, and why proposed, and how qualified to be appointed.
5. That the proposed guardian has no interest in the intended application, or if he has, the nature of his interest, and that it is not adverse to the interest of the infant.
6. The consent of the guardian to act.
7. The nature of the intended application to the Court.

XXII. For the purpose of procuring the direction of the judge for leave to make or consent to an application on behalf of infants or lunatics, under the stat. 19 & 20 Vict. c. 120, and the 10th General Order of the 15th November, 1856, a summons is to be taken out, after the petition is presented, in the ordinary form, intituled in the same manner as the petition, by the guardian of the infant or committee of the lunatic, that he may be at liberty, on behalf of the infant or lunatic, to make the application [*or*, consent to the application] to the Court proposed to be made by the petition presented to the Lord Chancellor, [*or*, Master of the Rolls], on the —— day of ——.

Upon this application the guardian or committee should make an affidavit that he believes it to be proper, and for the benefit of the infant or lunatic, that the application proposed to be made should be made [*or*, consented to] on behalf of the said infant or lunatic; and such other evidence, if any, should be adduced as the circumstances of the case may require, to shew the propriety of the application, so far as the infant or lunatic is concerned, and the petition should be produced.

XXIII. For the purpose of procuring the directions of the judge, pursuant to the 3rd General Order of the 15th November, 1856,

A summons is to be taken out, after the petition has been answered, intituled in the same manner as the petition, that directions may be given in what newspapers the notices required by the act are to be inserted.

The petition is to be produced on the return of the summons, and the judge's direction will be written on the petition, and signed by his chief clerk.

XXIV. The forms set forth in the schedule hereto are to be adhered to, and only to be varied in so far as may be necessary to meet the circumstances of the case.

John Romilly, M. R.
Richd. T. Kindersley, V. C.
John Stuart, V. C.
William Page Wood, V. C.

The following is a List of the Forms contained in the Schedule referred to by Regulation XXIV:—

No. 1. Affidavit of service of summons originating proceedings in chambers.
2. Affidavit of service of summons, not being a summons originating proceedings in chambers.
3. Affidavit as to production of documents pursuant to an order.
4. Account of personal estate.
5. Account of rents and profits.
6. Affidavit verifying accounts, and answering usual inquiries as to real and personal estate.
7. Ordinary conditions of sale.
8. Affidavit of result of sale.
9. List of debts allowed.
10. List of legacies remaining unpaid.
11. List of annuities and arrears due.
12. List of apportionments among creditors or legatees.
13. Receiver's recognisance.
14. Receiver's account.
15. Receiver's costs of appointment and passing account.
16. Plaintiffs' or defendants' costs of passing receiver's account.
17. Affidavit verifying receiver's account.
18. Affidavit verifying abstract.
19. Affidavit verifying ingrossments of deeds.

EXCHEQUER CHAMBER.

Errors from the Queen's Bench will be taken on Tuesday and Wednesday, the 10th and 11th instant; from the Exchequer on Thursday and Friday, the 26th and 27th instant; and from the Common Pleas on Saturday, the 28th instant. If necessary, the Court will sit on Monday, the 30th instant, to hear errors from the Courts of Common Pleas and Queen's Bench.

Court Papers.

EQUITY SITTINGS, MICHAELMAS TERM, 1857.

Court of Chancery.

Before the Lord Chancellor.

At Westminster.

Monday .... *Nov.* 2 Appeal Motions and Appeals.

At Lincoln's Inn.

Tuesday........	3	Petitions and Appeals.
Wednesday	4	Appeals.
Thursday	5	
Friday	6	
Saturday	7	
Monday.........	9	
Tuesday.........	10	
Wednesday.....	11	Appeal Motions and Appeals.
Thursday	12	Appeals.
Friday	13	
Saturday	14	
Monday.........	16	
Tuesday.........	17	
Wednesday	18	Appeal Motions and Appeals.
Thursday	19	Appeals.
Friday	20	
Saturday	21	
Monday.........	23	
Tuesday........	24	Petitions and Appeals.
Wednesday	25	Appeal Motions and Appeals.

Before the Lords Justices.

At Westminster.

Monday .... *Nov.* 2 Appeal Motions.

At Lincoln's Inn.

Tuesday........	3	Appeal Motions and Appeals.
Wednesday	4	Appeals.
Thursday.......	5	
Friday	6	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday	7	Appeals.
Monday.........	9	
Tuesday.........	10	
Wednesday	11	Appeal Motions and Appeals.
Thursday	12	Appeals.
Friday	13	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday	14	Appeals.
Monday.........	16	
Tuesday.........	17	
Wednesday	18	Appeal Motions and Appeals.
Thursday	19	Appeals.
Friday	20	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday	21	Appeals.
Monday.........	23	
Tuesday.........	24	
Wednesday	25	Appeal Motions and Appeals.

Before the Right Hon. the Master of the Rolls.

At Westminster.

Monday .... *Nov.* 2 Motions.

At Chancery-lane.

Tuesday........	3	General Petition-day.
Wednesday	4	General Paper.
Thursday	5	
Friday	6	General Paper.
Saturday	7	
Monday.........	9	
Tuesday	10	
Wednesday	11	Motions.
Thursday	12	General Paper.
Friday	13	
Saturday	14	
Monday.........	16	
Tuesday.........	17	
Wednesday	18	Motions.
Thursday	19	General Paper.
Friday	20	
Saturday	21	
Monday.........	23	
Tuesday........	24	General Petition-day.
Wednesday	25	Motions.

Short Causes, Short Claims, Consent Causes, Unopposed Petitions, and Claims every Saturday. The Unopposed Petitions to be taken first.

Notice.—Consent Petitions must be presented, and copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard.

Before Vice-Chancellor Sir Richard T. Kindersley.

At Westminster.

Monday .... *Nov.* 2 Motions.

At Lincoln's Inn.

Tuesday........	3	General Paper.
Wednesday	4	
Thursday	5	
Friday	6	Petitions (unopposed first).
Saturday	7	Short Causes, Claims, and General Paper.
Monday.........	9	General Paper.
Tuesday.........	10	
Wednesday	11	Motions and General Paper.
Thursday	12	General Paper.
Friday	13	Petitions (unopposed first).
Saturday	14	Short Causes, Claims, and General Paper.
Monday.........	16	General Paper.
Tuesday.........	17	
Wednesday	18	Motions and General Paper.
Thursday	19	General Paper.
Friday	20	Petitions (unopposed first).
Saturday	21	Short Causes, Claims, and General Paper.
Monday.........	23	General Paper.
Tuesday.........	24	
Wednesday	25	Motions and General Paper.

Before Vice-Chancellor Sir J. Stuart.

At Westminster.

Monday .... *Nov.* 2 Motions.

At Lincoln's Inn.

Tuesday........	3	General Paper.
Wednesday	4	
Thursday.......	5	
Friday	6	Petitions and General Paper.
Saturday	7	Short Causes and Claims, and General Paper.
Monday.........	9	General Paper.
Tuesday.........	10	
Wednesday	11	Motions and General Paper.
Thursday	12	General Paper.
Friday	13	Petitions and General Paper.
Saturday	14	Short Causes and Claims, and General Paper.
Monday.........	16	General Paper.
Tuesday.........	17	
Wednesday	18	Motions and General Paper.
Thursday	19	General Paper.
Friday	20	Petitions and General Paper.
Saturday	21	Short Causes and Claims, and General Paper.
Monday.........	23	General Paper.
Tuesday.........	24	
Wednesday	25	Motions and General Paper.

Before Vice-Chancellor Sir W. P. Wood.

At Westminster.

Monday .... *Nov.* 2 Motions.

At Lincoln's Inn.

Tuesday........	3	General Paper.
Wednesday	4	
Thursday	5	
Friday	6	
Saturday	7	Petitions, Short Causes, Claims, and General Paper.
Monday........	9	General Paper.
Tuesday........	10	
Wednesday	11	Motions and General Paper.
Thursday	12	General Paper.
Friday	13	
Saturday	14	Petitions, Short Causes, Claims, and General Paper.
Monday........	16	General Paper.
Tuesday........	17	
Wednesday	18	Motions and General Paper.
Thursday	19	General Paper.
Friday	20	
Saturday	21	Petitions, Short Causes, Claims, and General Paper.
Monday........	23	General Paper.
Tuesday........	24	
Wednesday	25	Motions and General Paper.

Notice.—Claims will be placed in the paper after Short Causes, &c. on each Saturday, in precedence of the General Paper.

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EQUITY CAUSE LISTS, MICHAELMAS TERM, 1857.

*** The following abbreviations have been adopted to abridge the space the Cause Papers would otherwise have occupied:—*A.* Abated—*Adj.* Adjourned—*A. T.* After Term—*Ap.* Appeal—*C. D.* Cause Day—*Cl.* Claim—*C.* Costs—*D.* Demurrer—*E.* Exceptions—*F. D.* Further Directions—*M.* Motion—*P. C.* Pro Confesso—*Pl.* Plea—*Ptn.* Petition—*R.* Rehearing—*S. O.* Stand Over—*Sh.* Short.

Before the LORD CHANCELLOR.

APPEALS.

- Dixon *v.* Gayfere
- Same *v.* Same
- Fluker *v.* Gordon
- Caddick *v.* Skidmore
- Warden *v.* Jones
- Dempster *v.* Graham
- Randfield *v.* Randfield
- Cotesworth *v.* M'Gachen
- Fowler *v.* Wyatt
- Perry-Herrick *v.* Attwood.

Before the LORDS JUSTICES.

APPEALS.

- Robson *v.* Lord Devon
- Skelton *v.* Cole
- Lyle *v.* Earl of Yarborough
- Harrison *v.* Mayor, &c. of Southampton
- Yem *v.* Edwards
- Glover *v.* Weedon
- Farebrother *v.* Gibson
- King *v.* King
- Ford *v.* Heeley.

Before the Right Hon. the MASTER OF THE ROLLS.

CAUSES, &c.

- Reade *v.* Woodrooffe (E to answer)
- Maxwell *v.* Port Tenant Patent Steam Fuel and Coal Co. (Cause)
- Smith *v.* Same (Cause)
- Swinfen *v.* Swinfen (Cause)
- Swinfen *v.* Swinfen (Cause)
- Att.-Gen. *v.* Dean, &c. of Windsor (M for decree)
- Somersetshire Coal Canal Co. *v.* Harcourt (M for decree)
- Tweedale *v.* Hulme (M for decree)
- Allen *v.* Herring (M for dec.)
- Sturgis *v.* Morse (Cause)
- Rennie *v.* Young (Cause)
- Wheaton *v.* Graham (Cause)
- Lowe *v.* North (Cause)
- Blincow *v.* White (M for dec.)
- Mott *v.* Goode (Cause)
- Boag *v.* Stanfen (M for dec.)
- Stanfen *v.* Boag (M for decree)
- Alsop *v.* Bell (Cause)
- Lenty *v.* Hillas (Cause)
- Austen *v.* Boys (Cause)
- Denton *v.* Lord J. Robert Manners (Further consideration, and summons to vary certificate)
- Duncan *v.* Shuter (M for decree)
- Smith *v.* Pavier (M for decree)
- Waller *v.* Barrett (Further consideration, and summons to vary certificate)
- Mocatta *v.* Bell (M for decree)
- Timmis *v.* Steele (M for dec.)
- Feakes *v.* Standley (Sp. case)
- Dalton *v.* Thompson (Cause)
- Formby *v.* Davies (M for dec.)
- Heather *v.* O'Neill (Cause)
- Townley *v.* Carter (M for decree)
- Scamell *v.* Graham (M for decree)
- Bainbridge *v.* Bainbridge (Ca.)
- Serjeant *v.* Nicholls (M for decree)
- Powell *v.* Powell (M for dec.)
- Williams *v.* Page (Cause)
- Hagley *v.* Gummer (M for decree)
- Atherton *v.* Langford (Sp. ca.)
- Cook *v.* Head (M for decree)
- Kelsey *v.* Kelsey (M for dec.)
- Child *v.* Jones (Further consideration, and summons to vary certificate)
- Ward *v.* Tyrrell (Cause)
- Baxter *v.* Charlesworth (M for decree)
- Tracey *v.* Butcher (M for dec.)
- Att.-Gen. *v.* West (Cause)
- Jeans *v.* Cooke (Cause)
- Holgate *v.* Jennings (Further consideration, and summons to vary certificate)
- Smith *v.* Metropolitan Board of Works (Cause)
- Prince *v.* Hine (M for decree)
- Scott *v.* Sheppard (Cause)
- Brown *v.* Brown (M for dec.)
- Ellis *v.* Bartrum Furth. con. and 2 sum. to vary certificate
- Bartrum *v.* Ellis
- Landon *v.* Landon (M for decree)
- King *v.* Spencer (Cl)
- Harrison *v.* Drew (Sp. case)
- Vyvyan *v.* Braddon (Further consideration)
- Shepherd *v.* Churchill (Further consideration)
- Moore *v.* Petchell (Further consideration, and summons to cary certificate)
- Smith *v.* Smith (Further consideration)
- Crosher *v.* Willey (M for dec.)
- Baker *v.* Colmer (F D, C)
- Pryce *v.* Dendy
- Pryce *v.* Shaw
- Bigg *v.* Strong (Cause)
- Arrowsmith *v.* Wetherell (Further consideration)
- Bown *v.* Stenson (Cl)
- M'Donald *v.* Richardson (M for decree)
- Levy *v.* Syer (Cl)
- Brunskill *v.* Caird (Further consideration)
- Carrington *v.* Younghusband (Cause)
- Birds *v.* Askey (Further consideration)
- Cleverley *v.* Cleverley (F D, C)
- Cleverley *v.* Whiteor
- England *v.* Ventham
- Blackford *v.* Blackford (M for decree)
- Crallan *v.* Oulton (6) (F D, C)
- Morley *v.* Morley (M for dec.)
- Humphreys *v.* Richards (Further consideration)
- Merchant Taylors' Co. *v.* Truscott (Further consideration, and M to vary certificate)
- Garnett *v.* Acton (Further consideration, and 2 summonses to vary certificate)
- Dawes *v.* Ridgway (Further consideration)
- Britton *v.* Mars (Cause)
- Dods *v.* Dufton (Cl)
- Campbell *v.* Vandervell (Cau.)
- Tucker *v.* Loveridge (M for decree)
- Lake *v.* Brutton (Further considerat.)
- Lake *v.* Brutton
- Annandale *v.* Beckwith (M for decree)
- Ridgway *v.* Newstead (M for decree)
- Harvey *v.* Addington (M for decree)
- Griffiths *v.* Howard (M for decree)
- Chancellor *v.* Morecraft (4) (F D, C)
- Jenkins *v.* Homfray (M for decree)
- Talbot *v.* Stephenson (Cause)
- Richardson *v.* Martin (M for decree)
- Heap *v.* Heap (M for decree)
- Saunders *v.* Norris (M for decree)
- Hardwicke *v.* Hardwicke (M for decree)
- Rayner *v.* Terry (M for dec.) *Sh*
- Conder *v.* Dalton (Further consider.)
- Dalton *v.* Conder
- Simpson *v.* Beattie (Cause).

Before Vice-Chancellor Sir RICHARD T. KINDERSLEY.

CAUSES, &c.

- Gardiner *v.* Slater (Further consideration)
- Price *v.* Pugh (F D, C)
- Gray *v.* Dowman (M for decree)
- Maltby *v.* Grey (Further consideration)
- Johnson *v.* Routh (Cause)
- Violet *v.* Finch (Cause)
- Bozzoni *v.* Rogerson (Cause)
- Broadhurst *v.* Garrard (M for decree)
- Lord *v.* Colvin (Cause)
- Colvin *v.* Lord (Cause)
- Moorhouse *v.* Colvin (Cause)
- Cochrane *v.* Cochran (Rehear.)
- Barton *v.* Colvin
- Lord *v.* Colvin
- Lord *v.* Colvin
- Lord *v.* Colvin
- Staunton *v.* Barrington (Cau.)
- Selby *v.* Fraser (Cause)
- Nevin *v.* Smith (M for decree)
- Fox *v.* Charlton (M for dec.)
- Tarratt *v.* Lloyd (Further consideration)
- Merlin *v.* Murphy (M for dec.)
- Davison *v.* Trevellion (M for decree)
- Bond *v.* Bell (Cause)

Esdaile *v.* Neale (M for dec.)
Webster *v.* Bradley (M for decree)
Davenport *v.* Davenport }
Booth *v.* Wise } (Furth. considerat.)
Sharpnell *v.* Sharpnell (Further consideration) *Sh*
Addison *v.* Bell (M for dec.)
Bell *v.* Bell (M for decree)
Dodson *v.* Sammell (Further consideration)
Prince *v.* Stevens (Cause)
Boulnois *v.* Taylor (Cause) *Sh*
Kenrick *v.* Wilcox (Further consideration)
Pooley *v.* Quilter (Cause)
Wayne *v.* Lewis }
Wayne *v.* Parke } (Further considerat.)
Farrer *v.* Dain (Further consideration)
Ewart *v.* Williams }
Williams *v.* Ewart } (E to Master's rep.)
Foster *v.* Dawber (M for dec.)
Scott *v.* Deffell (Further consideration)
Sterky *v.* Holmes (Cause)
Holmes *v.* Sterky (Cause).

Before Vice-Chancellor Sir J. STUART.

CAUSES, &c.

Barnes *v.* Thrupp (D)
Simpson *v.* Chapman (Further consideration, and M to vary certificate)
Scott *v.* Mayor, &c. of Liverpool (Cause)
Birch *v.* Sewell (2 Ms to vary Chief Clerk's certificate)
Wedderburn *v.* Wedderburn (M for decree)
Southern *v.* Sidney (M for decree)
Hutton *v.* Taylor }
George *v.* Taylor } (Cause)
Cory *v.* Watts (M for decree)
Brook *v.* Brook }
Brook *v.* Brook } (Further considerat.)
Prichard *v.* Lodge (Cause) }
Lodge *v.* Prichard (F D, C) }
Hannam *v.* Sims (M for dec.)
Alderson *v.* White (Cause)
Cottrell *v.* Ledsam (M for decree)
Smith *v.* Page (Cause)
Harrison *v.* Hamerton (M for decree)
Harris *v.* Morgan (Cause)
Spring *v.* Haslett (Further consideration)
Bird *v.* Mayhew (M for dec.)
Parker *v.* Taswell (M for dec.)
Bowes *v.* Goslett (M for dec.)
Oriental Bank Corporation *v.* Calrow (M for decree)
Oriental Bank Corporation *v.* Nicholson (M for decree)
Williams *v.* Roberts (M for decree)
Meynell *v.* Wright (Cause)
Griggs *v.* Wakeling (M for decree)
Ravenhill *v.* Smith (Cause)
Hawks *v.* Mullins (Further consideration) *S O*
Redhead *v.* Stephenson (M for decree)
Shaw *v.* Walker (Further consideration)
Birch *v.* Sewell (Further consideration, and 2 Ms to vary certificate)
Fox *v.* Newstead (M for dec.)
Sugden *v.* Crossland (Further consideration)
Welsh *v.* Colquhoun (Further consideration)
Doyle *v.* Riddell (M for dec.)
Dawson *v.* Dawson (M for decree)
Robertson *v.* Norris (Cause)
Hollis *v.* Bryant (Further consideration)
Cobb *v.* Mostyn (M for dec.)
Hamilton *v.* Arrowsmith (Further consideration)
Morgan *v.* Higgins (Further consideration)
Walton *v.* Wright (Cause)
Trappes *v.* Roskell (Further consideration)
Swift *v.* Swift (Further cons.)
Walker *v.* Whitehouse (M for decree) *Sh*
Vorley *v.* Cooke (Cause)
Cooke *v.* Vorley (Cause)
Wilkinson *v.* Redhead (Cause)
Latchford *v.* Fowkes (Cause)
Stevens *v.* Stevens (M for decree)
Russell *v.* Green (Further consideration)
Grange *v.* Warner }
Grange *v.* Warner } (F D, C)
Debney *v.* Eckett (Further consideration)
Horn *v.* Colman (Further consideration)
Fisk *v.* Norton (3) (Further consideration)
Howorth *v.* Tolson (M for decree)
Field *v.* Field (Cause)
Burgess *v.* Moxon (Further consideration)
Att.-Gen. *v.* Harvey (F D, C)
Powell *v.* Pritchard (M for decree)
Greenwood *v.* Greenwood (Further consideration)
Aylmer *v.* Bodger (M for dec.)
Churchill *v.* Holmes (M for decree)
Hall *v.* Fox (M for decree)
In re Brooker's Estate }
Brooker *v.* Brooker }
Brooker *v.* Brooker } Furth. con., & sum. to vary c.)
Munk *v.* Cole (Further consideration)
Harrison *v.* Deacon (M for decree)
Kaye *v.* Kaye }
Kaye *v.* Tees } (Further consideration)
Ellis *v.* Ellis (Further consideration, and 2 summonses to vary certificate)
Cocks *v.* Stanley (M for dec.)
Alford *v.* Jaquet (M for dec.)
Neve *v.* Thompson (M for decree)
Laen *v.* Allvey }
Laen *v.* Allvey } (M for decree)
Price *v.* Watson (Further consideration).

Before Vice-Chancellor Sir W. P. WOOD.

CAUSES, &c.

Snelgar *v.* Chambers (M for decree, part heard)
Hayter *v.* Tucker (Further consideration, part heard)
Farebrother *v.* Arkell (Cause, part hd., restored by order)
Smith *v.* Allfree (D)
Commissioners of Sewers for the Levels of Havering Dagenham, Ripple, &c. *v.* Victoria Dock Co. (D)
Milsome *v.* Long (Cause)
Chambers *v.* Flood (M for decree)
Marsland *v.* Mitarachi (Cause)
Fox *v.* Jackson (M for dec.)
Purser *v.* Darby (M for dec.)
Janes *v.* Page }
Mingay *v.* Page } (Cause)
Browne *v.* London Necropolis & National Mausoleum Co. (M for decree)
East Anglian Railway Co. *v.* Goodwin (Cause)
Robins *v.* Pearse (M for dec.)
Nov. 10
Forbes *v.* Forbes (Cause)
Jones *v.* Dudson (Cause)
Crowther *v.* Sutcliffe (Cause)
Kitson *v.* Shaw (M for decree)
Keith *v.* Partridge (M for decree)
Hanson *v.* Reece (M for dec.)
Cutler *v.* Cutler (M for dec.)
Lomax *v.* Sutton (M for dec.)
Shaw *v.* Fryer (M for decree)
Sanders *v.* Clayton (M for decree)
Hamond *v.* Walker (M for decree)
Emerson *v.* Mason (M for decree)
M'Mahon *v.* Herne (Cause)
Att.-Gen. *v.* Pretyman }
Att.-Gen. *v.* Dean, &c. of Lincoln } (E to Master's report)
Att.-Gen. *v.* Pretyman }
Att.-Gen. *v.* Dean, &c. of Lincoln } (F D, C)
Att.-Gen. *v.* Pretyman }
Att.-Gen. *v.* Bishop of Lincoln } (F D, C)
Richardson *v.* Adams (M for decree)
Soar *v.* Foster (Cause)
Grinsted *v.* Marsh (Cause)
Clubb *v.* Harris (Cause)
Talbot *v.* Kemshead (Cause)
Handley *v.* Worthington (M for decree)
Merryweather *v.* Walker (Sp. case)
Alexander *v.* Alexander (M for decree)
Brown *v.* Stockton and Darlington Railway Co. (M for decree)
Wilkinson *v.* Wilkinson (Ca.)
Chappell *v.* Haynes (Sp. case)
Hill *v.* Walker (Cause)
Wycherley *v.* Barnard (M for decree)
Goodman *v.* Robinson (M for decree)
Vandenberg *v.* Palmer (Cause)
Bourdillon *v.* Roche (Cause)
Martin *v.* West of England Fire and Life Insurance Co. (Cause)
Beavan *v.* Macqueen (Cause)
Hughes *v.* Evans (Cause)
Robinson *v.* Preston (M for decree)
Jackson *v.* Price (M for dec.)
Whitmore *v.* Lane (M for decree)
Taylor *v.* Roebuck (M for decree)
Manchee *v.* Kay (M for dec.)
Meates *v.* Bell (M for decree)
Horsfall *v.* Garnett (Cause)
Davies *v.* Dimsdale (Cause)
Garaden *v.* Dugdale (Cause)
Lord Ongley *v.* Lindsell (Ca.)
Prole *v.* Soady (Cause)
Carrington *v.* Carrington (Ca.)
Ernest *v.* Cutts (Cause, P C)
Official Manager of the Athenæum Life Assurance Society *v.* Bartlett (Cause)
Official Manager of the Athenæum Life Assurance Society *v.* Pooley (Cause)
Kennett *v.* Hunt (Cause)
Hutchins *v.* Osborne (Sp. ca.)
Wythes *v.* Labouchere (Cau.)
Burrell *v.* Moffatt (M for decree)
Fairband *v.* Murgatroyd (Further consideration)
Birch *v.* Summer (Cl)
Hiron *v.* Bowme (Further consideration)
Perkins *v.* Owen (Cause)
Crosthwaite *v.* Dean (Further consideration)
Tabor *v.* Pooley (Further consideration)
Walker *v.* Peddle (Further consideration)
Blake *v.* Holford (Further consideration)
Wilkes *v.* Jones (Further consideration)
Taylor *v.* Millington (Further consideration)
Mumford *v.* King (M for dec.)
Mitchell *v.* Barlee (Cause)
Brooksbank *v.* Frith (Cause)
Freme *v.* Brade (M for dec.)
Lloyd *v.* Attwood (Cause)
Attwood *v.* Lloyd (Cause)
Dixon *v.* Peel (Further cons.)
Southall *v.* Matthews (Cause)
Benson *v.* Sarl (Cause)
Ashley *v.* Fox (Cl)
Webb *v.* Webb (M for decree)
Green *v.* Eastern Counties Railway Co. (Cause)
Perkins *v.* Mellor (Further consideration)
Powell *v.* Aiken (Cause)
Abbott *v.* Blair (Cause)
Gedye *v.* Duke of Montrose (Cause)
Te Curn Eigia Quarry Slate and Slab Co. (Limited) *v.* Lee (M for decree)
Foster *v.* Strong (Cause)
Harries *v.* Williams (M for decree)
Notley *v.* Izant (Cause)
Earp *v.* Lloyd (M for decree).

at half-past 10, Nottingham.—*John Bean*, New London-street, City, and Albert-terrace, Albert-road, Sydenham-park, Kent, coal merchant, Nov. 20 at 1, London.—*Wm. Papineau*, Harrow-bridge, Stratford, Essex, manufacturing chemist, Nov. 23 at half-past 11, London.—*Henry Sutton*, Roscoe-town, Plaistow-marsh, Essex, builder, Nov 20 at 12, London.—*J. Farr*, Bristol, ironmonger, Nov. 23 at 11, Bristol.—*George Goodwin*, Manchester, woollen merchant, Nov. 20 at 11, Manchester.—*John Lloyd*, Bryn Salwrm, Llandderfel, Merionethshire, cattle salesman, Nov. 19 at 12, Liverpool.—*Joseph B. Spencer*, Halifax, Yorkshire, joiner, Nov. 20 at 11, Leeds.—*John Hamilton* and *Robert Hamilton*, Halifax, Yorkshire, wire workers, Nov. 20 at 11, Leeds.—*Henry Greaves*, Halifax, Yorkshire, reed and heald maker, Nov. 30 at 11, Leeds.—*W. Newsome* and *E. W. Hammond*, Staincliffe, Batley, Yorkshire, scribbling millers, Nov. 23 at 11, Leeds.

To be granted, unless an Appeal be duly entered.

Abraham Low, Lower Homerton, Middlesex, cattle salesman.—*George Robins Booth*, Portland-place, Wandsworth-road, Surrey, engineer.—*Jas. Jordan* the younger, Campden-hill, Kensington, builder.—*William Clarke*, King's Lynn, Norfolk, dealer in china.—*George Archer Smith*, Chapel-st., Bedford-row, tile maker.—*Thomas Davies*, Neath, Glamorganshire, contractor.—*Wm. Davis* and *Wm. Henry Davis*, Haverfordwest, drapers.—*Ebenezer Talbott*, Newarn, Lydney, Gloucestershire, ironfounder.—*Edwin Thompson*, Lydbrook, Gloucestershire, innkeeper.—*Thomas Jones*, Merthyr Tydfil, Glamorganshire, grocer.—*James Armstrong*, Berwick-upon-Tweed, woollendraper.—*James Lord*, Spotland, Rochdale, Lancashire, cotton spinner.—*J. Huthersal*, Altrincham, Cheshire, chemical manure manufacturer.—*Ralph Wharton*, Nottingham, machine maker.—*Thos. B. Marston*, Leicester, dyer.—*Samuel Wharton*, Chesterfield, Derbyshire, ironfounder.—*Thomas Bennett*, Derby, miller.—*Wm. Winning*, Wirksworth, Derbyshire, smallware manufacturer.—*Samuel Murfin*, Litchurch, Derbyshire, innkeeper.—*Samuel West*, Nottingham, lace maker.

PETITION ANNULLED.

Charles A. Hill, Bristol, cabinet maker.

PARTNERSHIP DISSOLVED.

Wm. A. S. Pemberton and *Frederick Moojen*, Southampton-street, Bloomsbury, attornies and solicitors, (under the style, title, or firm of Walter Pemberton & Moojen).

SCOTCH SEQUESTRATIONS.

James Shirra, Stirling, draper.—*Leander Millar & Co.*, Glasgow, lace merchants.—*Robert Laird*, *Wm. Thomson*, and *Wm. Smith*, Glasgow and Paisley, merchants.—*John Edward Stephens*, Edinburgh, banker.—*Wm. Guthrie*, Ballendrick, Dunbarney, Perthshire, wright.—*Wm. Sutherland* and *James Noble Sutherland*, Glasgow, plumbers.—*Wm. Smith & Co.*, Glasgow, calico printers.—*William Wilson*, deceased, Keith, Banffshire, draper.—*Michael M'Haffie & Co.*, Glasgow, merchants.—*James Goudie*, deceased, Edinburgh, merchant.

TUESDAY, *Nov.* 3.

BANKRUPTS.

JOHN MARTIN, Strand, victualler, Nov. 13 at half-past 1, and Dec. 16 at 12, London: Off. Ass. Cannan; Sol. Cutler, 5, Bell-yard, Doctors' Commons.—Pet. f. Oct. 30.

WILLIAM BENNETT, Great Newport-street, Newport-market, grocer, Nov. 13 and Dec. 17 at 11, London: Off. Ass. Whitmore; Sol. Lovell, 4, Great Ryder-street, St. James's, Westminster.—Pet. f. Oct. 31.

FREDERICK NOAKE BAKER, Southampton, coal merchant, Nov. 20 at 2, and Dec. 18 at 11, London: Off. Ass. Cannan; Sol. Westall, 3, South-square, Gray's-inn.—Pet. f. Nov. 2.

MARY ANN AKERS, Brizemorton, Oxfordshire, baker, Nov. 13 at 1, and Dec. 12 at 11, London: Off. Ass. Johnson; Sol. Ravenor, 5, Raymond-buildings, Gray's-inn.—Pet. f. Oct. 31.

WILLIAM NATHAN SYKES COPE, Wellington-street, Goswell-street, Middlesex, and Nottingham, wholesale tobacconist, Dec. 1 (and *not* Nov. 26, as originally appointed) at half-past 10, London: Off. Ass. Harris, (and *not* Bell, as originally appointed); Sol. Maples, Nottingham.—Pet. d. Oct. 13.

FREDERICK WILLIAM COX, Southampton, grocer, Nov. 12 at 11, and Dec. 12 at half-past 11, London: Off. Ass. Bell; Sols. Sharp & Co., Southampton; Trinder & Eyre, 1, John-street, Bedford-row.—Pet. f. Nov. 2.

JOHN HENDRY, Weymouth-street, Hackney-road, vat maker, Nov. 17 and Dec. 15 at half-past 11, London: Off. Ass. Graham; Sol. Norton, 10, Clifford's-inn.—Pet. f. Oct. 30.

HENRY COCKBURN, King-street, Richmond, Surrey, watchmaker, Nov. 16 at 11, and Dec. 14 at 12, London: Off. Ass. Pennell; Sol. Goddard, 28, King-street, Cheapside.—Pet. f. Nov. 2.

TERTIUS D'OYLEY PAIN, King-street, Hammersmith, chemist, Nov. 20 at 1, and Dec. 19 at 12, London: Off. Ass. Lee; Sols. Smith & Son, 6, Barnard's-inn, Holborn.—Pet. f. Nov. 2.

JOHN SIMES, George-street, Portman-square, painter, Nov. 17 at 1, and Dec. 15 at 2, London: Off. Ass. Edwards; Sol. Dale, 8, Furnival's-inn, Holborn.—Pet. f. Oct. 27.

SAMUEL TOWERS, Pitfield-street, Hoxton, looking-glass manufacturer, Nov. 17 at 2, and Dec. 15 at 1, London: Off. Ass. Edwards; Sol. Taylor, 15, South-street, Finsbury-square.—Pet. f. Oct. 29.

FRANCIS HILL, Withy Bank, Oldswinford, Worcestershire, commission agent, Nov. 14 and Dec. 3 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Prescott, Stourbridge; E. & H. Wright, Birmingham.—Pet. d. Nov. 2.

JOHN HOWL, Darlaston, Staffordshire, screw-bolt manufacturer, Nov. 13 at 10, and Dec. 10 at half-past 11, Birmingham: Off. Ass. Christie; Sols. Wilkinson, jun., Walsall; James & Knight, Birmingham.—Pet. d. Oct. 29.

RICHARD AUSTIN, Coventry, furniture dealer, Nov. 16 and Dec. 9 at 10, Birmingham: Off. Ass. Whitmore; Sols. Browett, Coventry; James & Knight, Birmingham.—Pet. d. Oct. 31.

WILLIAM PECK SWIFT, Bourn, Lincolnshire, grocer, Nov. 20 and Dec. 15 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bell, Bourn; James & Knight, Birmingham.—Pet. d. Nov. 2.

JOB CURTIS and HENRY HUNT SAYER, Cardiff, Glamorganshire, general provision merchants, Nov. 16 and Dec. 14 at 11, Bristol: Off. Ass. Acraman; Sols. Henderson & Howard, Bristol.—Pet. f. Sept. 23.

WILLIAM CUMMING, Plymouth, brewer, Nov. 12 and Dec. 3 at 10, Plymouth: Off. Ass. Hirtzel; Sols. Kelly, Plymouth; Stogdon, Exeter.—Pet. f. Oct. 26.

WILLIAM WHITE, Plymouth, dealer in seeds, Nov. 12 and Dec. 3 at 10, Plymouth: Off. Ass. Hirtzel; Sols. Bishop & Pitts, Exeter.—Pet. f. Oct. 26.

ALEXANDER RUTTER, Sheffield, Yorkshire, saw manufacturer, Nov. 14 and Dec. 19 at 10, Sheffield: Off. Ass. Brewin; Sol. Rayner, Sheffield.—Pet. d. Oct. 30; f. Oct. 31.

HUGH ROBERTS, Gorard, near Holyhead, Anglesey, corn dealer, Nov. 16 and Dec. 7 at 12, Liverpool: Off. Ass. Morgan; Sols. Evans & Son, Liverpool.—Pet. f. Oct. 27.

PHILIP EZEKIEL, Manchester, general dealer, Nov. 16 and Dec. 7 at 11, Manchester: Off. Ass. Hernaman; Sols. Marriott, Manchester; Clarke, Birmingham.—Pet. f. Oct. 15.

JAMES MOORHOUSE the younger, Summerseat, near Bury, Lancashire, cotton spinner, Nov. 17 and Dec. 15 at 12, Manchester: Off. Ass. Pott; Sol. Sutton, Manchester.—Pet. f. Oct. 28.

GEORGE TUCK, South Shields, Durham, shipowner, Nov. 13 at 12, and Dec. 16 at 1, Newcastle-upon-Tyne: Off. Ass. Baker; Sol. Brignal, Durham.—Pet. f. Oct. 28.

MEETINGS.

Wm. Strahan, Sir *John Dean Paul*, Bart., and *Robert Makin Bates*, Strand, bankers, Nov. 26 at half-past 1, London, pr. d. joint and sep. ests.—*Samuel Peace Ward*, Ledbury-terrace, Westbourne-grove West, Bayswater, timber merchant, Nov. 24 at half-past 12, London, last ex.—*James Meyrick*, Crewe, Cheshire, tailor, Dec. 2 at 11, Liverpool, last ex.—*Robert Henry Hill*, *George Robert Hudson*, and *Frederick Hudson*, London-wall, importers, Nov. 21 at half-past 11, London, last ex.—*Andrew M'Kean*, Southampton, timber merchant, Nov. 16 at 1, London, aud. ac.—*Francis Johns*, Walter-villas, Eleanor-road, Hackney, Middlesex, and Gweek, Windron, Cornwall, timber merchant, Nov. 16 at 11, London, aud. ac.—*John Walter Gray*, Bishop's Waltham, Southampton, commission agent, Nov. 16 at 2, London, aud. ac.—*James Martin* and *Edwin Markwick*, Brighton, surveyors, Nov. 16 at 11, London, aud. ac.—*James Castle*, Little Farringdon, Berkshire, miller, Nov. 16 at 1, London, aud. ac.—*John Chalcroft*, Norfolk-road, Westbourne-grove North, Paddington, builder, Nov. 16 at 11, London, aud. ac. —*Loran de Wolf Cochran*, South Sea House, Threadneedle-street, shipowner, Nov. 16 at half-past 12, London, aud. ac.—*John Dickson*, Bread-street, City, warehouseman, Nov. 16 at 12, London, aud. ac.—*William Papineau*, Stratford, Essex, manufacturing chemist, Nov. 16 at 12, London, aud. ac.—*William Ridley Carr* and *Henry Frederick Scott*, Wallsend, Northumberland, coke burners, Nov. 17 at 12, Newcastle-upon-Tyne, aud. ac.—*Lewis Dancyger*, Newcastle-upon-Tyne, cabinet maker, Nov. 17 at half-past 12, Newcastle-upon-Tyne, aud.. ac.—*Wm. Jopling*, Wolsingham, Durham, linendraper, Nov. 17 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Robert Simpson*, Sedgefield, Durham, draper, Nov. 17 at 1, Newcastle-upon-Tyne, aud. ac.—*George Cavens*, Carlisle, jeweller, Nov. 17 at 11, Newcastle-upon-Tyne, aud. ac.—*Rice Harris* and *Rice Williams Harris*, Birmingham, glass manufacturers, Nov. 21 at half-past 11, Birmingham, aud. ac.; Nov. 26 at half-past 11, div.—*Thos. Orton Goodwin*, Longton, Staffordshire, earthenware dealer, Nov. 13 at 10, Birmingham, aud. ac.; Nov. 27 at half-past 11, first and fin. div. —*Samuel West*, Nottingham, lacemaker, Dec. 15 at half-past 10, Nottingham, aud. ac.—*J. Phillips Veysey*, Exeter, hatter, Nov. 26 at 11, Exeter, aud. ac.; Dec. 9 at 11, div.—*Joseph Toms*, Exeter, builder, Nov. 26 at 11, Exeter, aud. ac.; Dec. 9 at 11, div.—*William Lake*, Topsham, Devonshire, maltster, Nov. 26 at 11, Exeter, aud. ac.; Dec. 9 at 11, div. —*James Clark*, St. Thomas the Apostle, Devonshire, tea dealer, Nov. 26 at 11, Exeter, aud. ac.; Dec. 9 at 11, div.—*George Ellis*, South Brent, Devonshire, miller, Nov. 26 at 11, Exeter, aud. ac.—*William Burt*, St. Stephens by Launceston, Cornwall, builder, Nov. 26 at 11, Exeter, aud. ac.; Dec. 9 at 11, div.—*Henry Mackay*, Exeter, confectioner, Nov. 26 at 11, Exeter, aud. ac.—*Francis Bee*, Sheffield, table-knife manufacturer, Nov. 14 at 10, Sheffield, aud. ac.—*Charles Van Lohe*, Bread-street, City, woollen warehouseman, Nov. 24 at 12, London, fin. div.—*John Ellison*, Bread-street, Cheapside, and Harley-street, Cavendish-square, Middlesex, warehouseman, Nov. 25 at 12, London, div.—*William Gifford*, St. Ives, Huntingdonshire, saddler, Nov. 25 at half-past 11, London, div.—*David Arthur Singer*, Oxford-street, Middlesex, tailor, Nov. 25 at half-past 12, London, div.—*Bartholomew Ward*, High-street, Southwark, Surrey, and St. James's-place, New-cross, Kent, stationer, Nov. 25 at 11, London, div.—*James Harrison*, City, commission agent, Nov. 24 at 2, London, div.—*Thomas Jones*, New Broad-street, City, and Backchurch-lane, St. George's-in-the-East, Middlesex, ale merchant, Nov. 24 at half-past 1, London, div.—*Robert Johnson*, Phoenix-place, Calthorpe-street, Gray's-inn-road, and Bell-yard, Gracechurch-street, City, builder, Nov. 24 at half-past 12, London, div.—*John Elphinstone Fatqua HoChee*, Nortons Lingfield, Surrey, maker of paint, Nov. 24 at half-past 11, London, div.—*John Swan*, Leadenhall-street, City, merchant, Nov. 24 at 1, London, div.—*Thomas Purdy*, Great Yarmouth, wine merchant, Nov. 24 at 12, London, div.—*John Goldsbrough*, Manchester, manufacturer, Nov. 16 at 1, Manchester, aud. ac.; Nov. 24 at 1, div.—*David Marshall*, Bristol, tailor, Nov. 26 at 11, Bristol, fin. div.—*Gilbert Hodgson* and *William Atcheson*, Sunderland, Durham, timber merchants, Nov. 26 at 12, Newcastle-upon-Tyne, div.—*Thomas Henry Cogdon*, Sunderland, Durham, plumber, Nov. 25 at half-past 12, Newcastle-upon-Tyne, div.—*Thomas Huntley*, Sunderland, Durham, grocer, Nov. 25 at half-past 11, Newcastle-upon-Tyne, div.—*Benjamin Browning*, St. Peter, Hereford, victualler, Nov. 27 at half-past 11, Birmingham, first and fin. div.—*William Fisher*, Stratford-upon-Avon, Warwickshire, grocer, Nov. 27 at half-past 11, Birmingham, fin. div.—*Edward Petter* and *William Arundell Oatey*, Barnstaple, Devonshire, ironfounders, Nov. 26 at 11, Exeter, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Edward Baldwin, Shoe-lane, City, printer, Nov. 26 at 11, London.—*Abraham Nash*, Everett-street, Brunswick-square, Middlesex, builder, Nov. 25 at 1, London.—*John Julian Jackson*, Lawrence-lane, City; Richmond, Surrey; Sydenham, Kent; and Brompton, Middlesex, dyer, Nov. 25 at half-past 12, London.—*Abraham Jacobs* and *John Jacobs*, Crown-street, Finsbury, merchants, Nov. 25 at 12, London.—*Henry Williams*, Swansea, Glamorganshire, timber merchant, Dec. 1 at 11, Bristol.—*Thomas Henry Cogdon*, Sunderland, Durham, plumber, Nov. 25 at 12, Newcastle-upon-Tyne.—*Edward Petter* and *William Arundell Oatey*, Barnstaple, Devonshire, ironfounders, Nov. 26 at 11, Exeter.—*John Doherty*, Liverpool, provision dealer, Nov. 26 at 12, Liverpool.—*Thomas Bailey*, Nottingham, and Bingham and Beeston, Nottinghamshire, draper, Nov. 24 at half-past 10, Nottingham.

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Francis Manser, Brownlow-place, Queen's-road, Haggerstone, Middlesex, baker.—*Edward Simmons Cooper*, Commercial-place, City-road, Middlesex, leather seller.—*William Hadfield*, Liverpool, and Cockspur-street, Middlesex, merchant.—*Hugh Mackay* and *William Bishton Davies*, Liverpool, shipwright.—*William Stock*, Newton, near Warrington, Lancashire, glass manufacturer.—*Sampson Hackett*, Cradley-heath, Staffordshire, draper.—*Sarah Patrick*, Worcester, butcher.—*Thomas Dale*, Leek, Staffordshire, dealer in drainage pipes.

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Mr. Justice Cresswell has been appointed Judge of the new Court of Probate.

The Queen has been pleased to appoint Francis Smith, Esq., to be Attorney-General, and Thomas John Knight, Esq., to be Solicitor-General, for the island of Tasmania; also, Charles Fisher, Esq., to be Attorney-General for the province of New Brunswick.

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GAZETTES.—Friday, *Nov.* 6.

Bankrupts.

ELIZABETH ROGERS, Westminster-bridge-road, Surrey, hosier, Nov. 17 at half-past 12, and December 17 at 2, London: Off. Ass. Bell; Sol. Fitch, Southampton-street, Bloomsbury.—Pet. f. Nov. 4.

OWEN STURGIS, College-terrace, Finchley-road, St. John's-wood, Middlesex, builder, Nov. 19 at 2, and Dec. 18 at 11, London: Off. Ass. Johnson; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. Nov. 5.

RICHARD TOMLIN, Castle-street, Leicester-square, Middlesex, licensed victualler, Nov. 17 at 12, and Dec. 17 at at 1, London: Off. Ass. Johnson; Sols. Jay, Bucklersbury, London; Gray & Pilgrim, Norwich.—Pet. f. Nov. 4.

JAMES SAMUEL WILLIAM TOMSON and ALBERT THOMAS TULL, Beech-street, Barbican, and Commercial-place, City-road, fancy box manufacturers, Nov. 20 at 12, and Dec. 18 at half-past 1, London: Off. Ass. Whitmore; Sol. Stopher, 52, Cheapside.—Pet. f. Nov. 4.

MARY WHITE, High-street, Poplar, out of business, late of the New Corn Exchange, Mark-lane, London; Phœnix-wharf, Stratford, Essex; and Globe-wharf, Wapping, Middlesex, corn merchant, (carrying on business with Edmund White, under the firm or style of M. White & Son), Nov. 17 at half-past 11, and Dec. 19 at 11, London: Off. Ass. Whitmore; Sols. G. & E. Hilleary, Fenchurch-buildings, Fenchurch-street.—Pet. f. Nov. 4.

GEORGE BOYS, Bromley, Middlesex, builder, Nov. 18 at 11, and Dec. 14 at 2, London: Off. Ass. Pennell; Sol. Kempster, Kennington-lane, Lambeth.—Pet. f. Nov. 3.

JAMES COOPER, High-street, Marylebone, upholsterer, Nov. 18 at half-past 1, and Dec. 14 at 1, London: Off. Ass. Nicholson; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry; Randall, 50, Welbeck-street.—Pet. f. Nov. 4.

GEORGE BROWNE, Tottenham-court-road, draper, Nov. 19 at 11, and Dec. 14 at half-past 1, London: Off. Ass. Nicholson; Sol. Fitch, 23, Southampton-street, Bloomsbury.—Pet. f. Nov. 5.

THOMAS WILLIAM GILBERT, Railway-place, Fenchurch-street, and Victoria-wharf, Narrow-street, Limehouse, sail maker, Nov. 20 at half-past 12, and Dec. 22 at 11, London: Off. Ass. Stansfeld, Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. Nov. 3.

HENRY GILES, Tomlins-terrace, Limehouse, stonemason, Nov. 17 at half-past 2, and Dec. 22 at 1, London: Off. Ass. Graham; Sol. Teague, Crown-court, Cheapside.—Pet. f. Oct. 23.

FREDERICK GEORGE EARLE, Salisbury-street, Strand, Middlesex, late of Prince's-square, Kennington, Surrey, commission agent, Nov. 20 at 3, and Dec. 19 at 1, London: Off. Ass. Edwards; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. Nov. 4.

HENRY HINE, Piccadilly, laceman, Nov. 20 at half-past 2, and Dec. 15 at 1, London: Off. Ass. Edwards; Sols. Sole & Co., 68, Aldermanbury.—Pet. f. Nov. 3.

JACOB MARTIN VAN WINKLE, Poultry, City, tavern keeper, Nov. 20 at 2, and Dec. 19 at 1, London: Off. Ass. Lee; Sols. George & Downing, 35, King-street, Cheapside.—Pet. f. Oct. 31.

JOSEPH COOKS and JOHN COOKS, Darby's-hill, Oakham, Staffordshire, cattle salesmen, Nov. 19 and Dec. 10 at half past 11, Birmingham: Off. Ass. Christie; Sols. Southall & Nelson, Birmingham.—Pet. d. Oct. 31.

JOHN ASTON, Stourbridge, Worcestershire, licensed victualler, Nov. 18 and Dec. 9 at 11, Birmingham: Off. Ass. Christie; Sols. Prescott, Stourbridge; Reece, Birmingham.—Pet. d. Nov. 5.

BENJAMIN FLETCHER BURTON, Nottingham, timber merchant, Nov. 27 and Dec. 15 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Deverill, Nottingham; Hodgson & Allen, Birmingham.—Pet. d. Oct. 28.

WILLIAM BRAILSFORD, Nottingham, smallware dealer, Nov. 20 and Dec. 15 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. Nov. 3.

THOMAS BINGHAM, Holbeach, Lincolnshire, draper, Nov. 27 and Dec. 18 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Reece, Birmingham; Parker & Lee, St. Paul's-churchyard, London.—Pet. d. Oct. 21.

FRANCIS MEREDITH CAPORN, Nottingham, lace manufacturer, Nov. 20 and Dec. 15 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Wells, Nottingham.—Pet. d. Oct. 30.

THOMAS BURN RHODES, Bradford, Yorkshire, druggist, Nov 24 at 12, and Dec. 22 at 11, Leeds: Off. Ass. Hope; Sols. Dawson, Bradford; Bond & Barwick, Leeds.—Pet. d. Nov. 5.

SIMEON COLEMAN, Kingston-upon-Hull, tailor, Nov. 25 and Dec. 23 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sol. Jackson, Kingston-upon-Hull.—Pet. d. Nov. 4.

JOHN MARKILLIE DOLBY, Market Rasen, Lincolnshire, chemist, Nov. 18 and Dec. 16 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Stamp & Jackson, Kingston-upon-Hull.—Pet. d. Nov. 4.

HUGH ROBERTS, Gorad, (and *not* Gerard, as advertised in last Tuesday's Gazette), near Holyhead, Anglesey, corn dealer, Nov. 16 and Dec. 7 at 12, Liverpool: Off. Ass. Morgan; Sols. Evans & Son, Liverpool.—Pet. f. Oct. 27.

Meetings.

George Gull, Belsize-terrace, Hampstead, Middlesex, and Old Broad-street, London, tallow broker, Nov. 17 at 1, London, last ex.—*Henry Lazarus*, Wilmington-square, Clerkenwell, watch manufacturer, Nov. 17 at half-past 1, London, last ex.—*George Vincent*, Mistley, Essex, beerhouse keeper, Nov. 17 at 2, London, last ex.—*Wm. Hutchison*, Frant, near Tunbridge Wells, Kent, stone merchant, Nov. 17 at 12, London, last ex.—*Wm. E. Deacon*, Gosport, linendraper, Nov. 18 at half-past 12, London, last ex.—*Thomas Thompson Ponsonby*, Piccadilly, carver, Nov. 18 at 11, London, aud. ac.—*Anthony Marsden* and *Wm. Marsden*, High-street, Islington, shawl warehousemen, Nov. 18 at 11, London, aud. ac.—*Wm. Nash*, St. John-street, Smithfield-bars, Middlesex, licensed victualler, Nov. 18 at 11, London, aud. ac.—*Charles Walker* and *Frederick J. Walker*, Commercial-road East, drapers, Nov. 20 at 12, London, aud. ac.—*Charles Wm. Hill*, Birmingham, anvil maker, Nov. 18 at 10, Birmingham, aud. ac.—*Theodore R. Kenway*, Birmingham, broker, Nov. 16 at 10, Birmingham, aud. ac.—*Wm. Rees*, Glastonbury, Somersetshire, bookseller, Nov. 26 at 11, Bristol, aud. ac.—*James Wearing*, Ulverston, Lancashire, joiner, Nov. 17 at 12, Manchester, aud. ac.—*Robt. Lodge*, Starbottom, Kettlewell, Yorkshire, miner, Nov. 16 at 11, Leeds, aud. ac.—*Charles Jacob*, Ingram-court, Fenchurch-street, merchant, Nov. 30 at 11, London, div.—*James Parkins*, Cheapside, clothier, Nov. 30 at half-past 11, London, div.—*George C. Hyde*, South-parade, Chelsea, surgeon, Nov. 28 at 12, London, div.—*L. Dalton*, Canal-bridge, Old Kent-road, Surrey, stone merchant, Nov. 27 at 12, London, div.—*W. C. Strange*, Henley-on-Thames, Oxfordshire, bricklayer, Nov. 24 at 12, London, div.—*Henry Wm. Collison* the younger, Bath, provision merchant, Dec. 3 at 11, Bristol, fin. div.—*Stephen Greaves*, Eccleshill, Yorkshire, cloth manufacturer, Nov. 27 at 11, Leeds, div.—*James Siddons*, Sheffield, grocer, Nov. 28 at 10, Sheffield, div.—*J. H. Collins*, Halifax, draper, Nov. 27 at 11, Leeds, div.—*J. B. Spencer*, Halifax, joiner, Nov. 27 at 11, Leeds, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

R. Wilby, Prince of Wales-road, Camden-town, licensed victualler, Nov. 30 at 1, London.—*John Down Gordon*, Eldon-street, Finsbury, pianoforte manufacturer, Nov. 30 at half-past 1, London.—*William Rees*, Glastonbury, Somersetshire, bookseller, Dec. 1 at 11, Bristol.—*Joseph Wright*, Birmingham, and *John Salisbury*, Ashby-de-la-Zouch, Leicestershire, ironfounders, Nov. 30 at 10, Birmingham.—*William Robertson*, Birmingham, currier, Nov. 30 at 10, Birmingham.

To be granted, unless an Appeal be duly entered.

Frederick Morse, Dunster-court, Mincing-lane, City, rice merchant.—*John Thorburn*, Pleydell-street, Fleet-st., City, and Lower Stamford-street, Surrey, bookbinder.—*J. Morton*, Huntingdon, ironmonger.—*Cornelius Davies* and *Frederick Norman*, Great Scotland-yard, Westminster, cement merchants.—*Louis Philippe Remy Fenwick de Porquet*, Fenchurch-street, City, and Fairkytes, Hornchurch, Essex, dealer in agricultural implements.—*Thomas Nash* the younger, Great Dover-street, Southwark, brushmaker.—*John Watson*, Artillery-place, Finsbury-square, mining agent.—*Edmund White*, Mark-lane, London; Stratford, Essex; and Wapping,

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THE JURIST.

LONDON, NOVEMBER 14, 1857.

THE case of *Ex parte Baker*, (3 Jur., N. S., part 1, pp. 514, 937), which has been before the Courts of Queen's Bench and Exchequer, involves the question whether the commitment of an artificer to prison under the 4 Geo. 4, c. 34, s. 3, (the Masters and Servants Act), for absenting himself from the service, does or does not dissolve the contract; or, in other words, whether, if he refuses after the imprisonment to return to the service, his absence is a fresh offence, for which he can be again committed to prison. The judges of the Court of Queen's Bench have answered this question in the affirmative; whilst in the Court of Exchequer two of their Lordships (Bramwell and Watson, BB.) agreed with the Court of Queen's Bench; Martin, B., seemed to lean the other way, although expressing no positive opinion; and Pollock, C. B., adopted the negative view of the question. It should be stated, however, that what was said upon this point by the learned Barons may be considered as extrajudicial, inasmuch as the prisoner was discharged by them upon another point. The facts were these:—A potter had been committed by a justice of the peace for having unlawfully absented himself from the service of his master. An application was thereupon made to the Court of Queen's Bench for a certiorari to remove the conviction, and also for a writ of habeas corpus, for the purpose of getting the prisoner discharged from custody. Affidavits were used, from which it appeared that the prisoner had previously, on the 15th March, 1857, been committed to prison for one month for absenting himself from the service of the same master under the same contract. Upon his discharge from prison he entered into another service, and refused to return to his original service, although he was requested to do so. Thereupon a second summons was taken out, and he was again committed, (May 13th). The validity of this second commitment was now questioned, and it was contended that there had been merely a continuing absence, and that no fresh offence had been committed for which the prisoner was liable to be imprisoned. The Court of Queen's Bench refused the application, and a similar motion was afterwards made to the Court of Exchequer, by whom the prisoner was discharged, the majority of the Court holding that the warrant of commitment was bad for not dealing with the abatement of wages during the imprisonment—a point which was not taken in the Court of Queen's Bench. By the stat. 4 Geo. 4, c. 34, "if any servant in husbandry, or any artificer, calico printer, or *potter*, &c., shall contract with any person to serve him for any time or times whatsoever, or in any other manner, and shall not enter into or commence his service, (such contract being in writing, and signed by the contracting parties), or *having entered into such service shall absent himself from his service* before the term of his contract, whether such contract shall be in writing or not in writing, shall be completed, or neglect to fulfil the same, or be guilty of any other misconduct or misdemeanour in the execution thereof, or otherwise respecting the same, it shall and may be lawful for any justice of the peace, &c., upon complaint thereof &c., and if it shall appear to any such justice that any such servant in husbandry, &c. shall not have fulfilled such contract, or hath been guilty of any other misconduct or misdemeanour as aforesaid, to commit every such person to the house of correction, there to remain and be held for a reasonable time, not exceeding three months, and *to abate a proportionable part of his wages for and during such period as he shall be so confined in the house of correction*, or, in lieu thereof, to punish the offender by abating the whole or any part of his wages, or to discharge such servant in husbandry, &c. from his contract, service, or employment." However harshly this enactment might, under a possible but by no means probable state of things, operate upon the labouring classes, yet we should have thought, but for the positive opinion of Pollock, C. B., and the doubts expressed by Martin, B., that, looking at the words of the section, its construction is clear and plain. Under the first head of punishment the magistrate may imprison the servant and abate his wages; and if he fails to adjudicate as to the abatement of wages, the conviction is bad, as decided by the Court of Exchequer in this very case. Then what wages are to be abated? Why, "a proportionable part of his wages for and *during such period as he shall be so confined* in the house of correction." Now, if the committal were itself a discharge from the contract, there could be no wages to abate during the period of the imprisonment. From the expressions themselves, therefore, we think it may be gathered that the Legislature intended that the contract should continue notwithstanding the committal and imprisonment. Then, again, the statute provides two less degrees of punishment in lieu of the imprisonment and abatement of wages, viz. an abatement of the whole or any part of the wages, or a discharge from the contract. In the words of Erle, J., "the statute contemplates the relation of master and servant as still continuing if the servant is imprisoned; for it authorises the magistrate, in the alternative, to send the servant to prison for three months, or to punish him by abating part of his wages, or to discharge him from his contract." It is true, that with a vindictive master, a pliant magistrate, and an obstinate servant, the state of things suggested by the Chief Baron might arise, viz. the imprisonment of the servant during nearly the entire period of his contract to serve. It is also true that the treadmill is not the most desirable mode of enforcing the specific performance of contracts to serve, and it is satisfactory to learn from Martin, B., that a bill will shortly be brought into Parliament upon the subject that may provide a more efficient substitute.

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The case of *Hooper* v. *Lane*, in the House of Lords, (3 Jur., N. S., part 1, p. 1026), will henceforth be a leading authority upon the subject of arrest by a sheriff. The material facts were these:—Lane, in May, 1842, issued a writ of ca. sa. against one Bacon, and delivered it to Hooper, the sheriff of Middlesex, for execution. In August, 1843, Bacon was arrested by the sheriff, but it was on mesne process at the suit of one Arambura, and not upon Lane's writ. The capias upon which Bacon was actually arrested turned out to be void, and after a few days Bacon was ordered to be discharged as to this process. An order was afterwards made for the discharge of Bacon from the custody of the sheriff, although he claimed to detain him on the good writ of Lane. Bacon was not afterwards taken, and in an action at the suit of Lane against the sheriff for neglecting to arrest Bacon, and also for arresting him under void process, by reason whereof he was ordered to be discharged, whereby the sheriff deprived himself of the means of taking or detaining him, the main question which arose was, whether, the first arrest being illegal, the detainer on the second writ was also unlawful. The judgment of the House of Lords decides that it was. Of the nine judges, however, who gave their opinion to the House, four were in favour of the sheriff, namely, Wightman and Erle, JJ., and Martin and Bramwell, BB. They were of opinion that the sheriff had strictly performed his duty towards Lane, and therefore ought not to be answerable to him; that admitting the first arrest to have been unjustifiable, yet there is no rule of law which prevents a sheriff, who has a defendant wrongfully in custody at the suit of one plaintiff, from detaining him at the suit of another, who has lodged a regular writ in the office to be executed, and who was unconnected with the illegal arrest; that therefore Bacon ought not to have been discharged from custody when the sheriff claimed to detain him by virtue of Lane's writ; and therefore the consequent damage was occasioned, not by breach of duty on the part of the sheriff, but by the improper discharge of Bacon by the judge. The learned judges whose opinions were adopted by the Lord Chancellor were Coleridge, Cresswell, Crompton, Williams, and Crowder, JJ. Their view was, that when the sheriff has a defendant in custody under circumstances which make that custody illegal as between the sheriff and the party detained, and so entitle the latter to be discharged from that illegal detention, the sheriff is bound to discharge him, whatever valid writs he may have held at the time of the illegal arrest, or which he may have received afterwards during the illegal imprisonment. The Lord Chancellor and a majority of the judges recognised and acted upon the decision of the Court of Common Pleas in *Barratt* v. *Price*, (9 Bing. 566). There an officer of the sheriff held a warrant to arrest the defendant, and the officer's son took upon himself, without any lawful authority, to arrest the defendant, and handed him over to a police constable on a false charge of felony. The father, having notice of the facts, delivered the warrant to his son, in the hope that he might thereby justify the arrest made by him; but a judge, on application, ordered the defendant to be discharged from that arrest. He was, however, detained on a capias ad satisfaciendum which had been lodged with the sheriff by the plaintiff Barratt, who was in no way connected with the illegal arrest, and the Court considered that he was entitled to be discharged also from that detainer. Tindal, C. J., held, that as the sheriff had by his act illegally arrested the defendant, he was not in custody under the writ at the suit of Barratt, but was suffering a false imprisonment, and that such false imprisonment, being no arrest in the original action, could not operate as an arrest under the other writs lodged with the sheriff. "The Chief Justice," said the Lord Chancellor, commenting upon this case, "took care to explain that he did not mean to infringe upon—indeed, he expressly recognised—the doctrine, that where a sheriff has several writs against the same defendant, and arrests him under one of them, that operates as an arrest under all. To make a second arrest of a defendant already in custody would be a mere form, actum agere. But where the sheriff has a defendant in custody by virtue of what amounts to a false imprisonment, there the first [valid] writ is out of the question; he cannot rely on that as having given him any authority; he is a mere trespasser, and, in contemplation of law, has not arrested the defendant at all." The Lord Chancellor also drew the following distinction, which it will be useful to bear in mind:—"If a sheriff, holding a valid writ at the suit of A., and an invalid writ at the suit of B., arrests on both writs, the arrest is certainly good, because a good ground of arrest exists, and is, I assume, made known to the party arrested. If, holding a valid and also an invalid writ, he arrests on the invalid writ only, then he is not entitled for his justification to rely on the valid writ. He is bound when he executes the writ to make known the ground of the arrest, in order, among other reasons, that the person arrested may know whether or not he is bound to submit to the arrest. Where the sheriff has arrested on one good and valid writ, he may detain on any number of valid writs which he had at the time of the arrest, or which may afterwards have reached him. A subsequent arrest would in such case be an idle form; indeed, it could not, in the very nature of things, be made at all, if arrest is considered to mean an act whereby the person arrested is deprived of freedom. Of that he would have been already lawfully deprived, and he could not, by any subsequent form of arrest, be deprived of what was already gone from him. But in the case of an arrest on an invalid writ it is different. Though the party arrested has been deprived of his liberty, that has been done in circumstances which make it the duty of the sheriff to discharge him; he has no right to treat him as a person deprived of his liberty, and an arrest on the valid writ is therefore necessary. But to allow the sheriff to make such an arrest while the party was unlawfully confined by him would be to permit him to profit by his own wrong, and therefore cannot be tolerated. He cannot arrest him, because he has already deprived him of his liberty; he cannot detain him, because he is entitled to be discharged." Professional opinion will probably be almost as much divided as the judges are upon the propriety of this decision; it certainly seems hard upon the sheriff that he should be compelled to discharge a person whom he would be entitled to take at that moment if he were at large; that he cannot detain his prisoner, although he might take him to prison, and detain him there, if he were not already in prison; and that by thus discharging him under compulsion of law, he is liable to damages for not arresting him. There is, however, this satisfaction, that if error there be in the ultimate decision of this case, it is on the right side, as it will render public officers intrusted with the power of arrest more careful in looking to their authority, and in strictly keeping within its limits.

ARRANGEMENTS BY DEED UNDER THE BANKRUPT-LAW CONSOLIDATION ACT, 1849.

Arrangements by deed, under the 224th and subsequent sections of the stat. 12 & 13 Vict. c. 106, (commonly called "the six-sevenths clauses"), have been the subject of some important decisions, a brief notice of which may be useful to our readers. The clauses in question are very imperfectly expressed, and seem to have been drawn without sufficient consideration of all the circumstances incident to the framing and carrying into effect of a private arrangement. The act, it will be seen, enacts that every deed or memorandum of arrangement entered into between any trader liable to become bankrupt and his creditors, and signed by or on behalf of six-sevenths in number and value of his creditors whose debts amount to 10*l.* and upwards, "touching such trader's liabilities and his release therefrom, and the distribution, inspection, conduct, management, and mode of winding up of his estate, or all or any of such matters, or any matters having reference thereto," shall bind all his creditors, provided the conditions as to notices and other matters contained in the subsequent sections are fulfilled.

In *Tetley* v. *Taylor*, (1 El. & Bl. 521), the Court, commenting on the terms of the 224th section, said, "It is impossible to contend that these words necessarily require that the deed should provide for the distribution of all the trader's effects among his creditors, or that they exclude a deed which allows him to remain in possession of them on payment of such a composition as is satisfactory to six-sevenths of the creditors. . . . . The section cautiously and anxiously guards against the supposition that the deed to be protected must embrace all the matters which it enumerates." And the Court of Queen's Bench held in that case, that a deed providing for the payment of a composition of 7*s.* 6*d.* in the pound on the trader's debts, assented to by six-sevenths of the creditors, and duly notified to the others, was binding on all.

But in *Drew* v. *Collins* (6 Exch. 670) a similar deed, providing for the release of the debtor on his paying a composition of 6*s.* 8*d.* in the pound, and duly executed by six-sevenths of the creditors, was held not to bind the dissenting creditors, the Court being of opinion that the only reasonable and proper construction of the statute was, that there could be no valid arrangement by deed unless the whole of the trader's estate was distributed among his creditors; and it was remarked that in sect. 114, which provides for arrangements under the sanction of the Court of Bankruptcy, the words are much larger than in sect. 224, but the composition is binding only if approved of by the Court.

After this *Tetley* v. *Taylor* was carried to the Exchequer Chamber, and it was decided that the deed must provide for the distribution of all the trader's estate. But the Court suggested that it might be no objection to such a deed that the distribution of the estate was left to the debtor, if he was bound to distribute the whole; and on the correctness of this suggestion depends the validity of the many deeds of arrangement which have been executed with a view to bind all the creditors under these clauses.

Tetley v. *Taylor* has been strictly followed in subsequent cases. In *Fisher* v. *Bell* (12 C. B. 363) a deed of composition was, of course, held to be invalid. In *Cooper* v. *Thornton* (1 El. & Bl. 544) the deed assigned all the trader's effects to trustees for the benefit of his creditors rateably, but provided that it should be lawful for the trustees to make to the debtor such allowance, or to return to him such part of his household furniture or effects, not exceeding the value of 20*l.*, as they might deem expedient. This discretionary power to the trustees was held to defeat the operation of the deed under the arrangement clauses.

In *March* v. *Warwick* (1 H. & Norm. 158) an exception of the wearing apparel of the debtor and his family was considered to take the deed out of the arrangement clauses. The deed was, however, objectionable also on the ground that it provided for the distribution of the estate among the executing creditors only.

Thus it appears that a trader who proposes to take advantage of these clauses must place himself in a worse position than he would be in in bankruptcy. He cannot reserve his wearing apparel or any part of his furniture, and he cannot stipulate for an allowance for his bare subsistence.

In *Ex parte Wilkes* (5 De G., Mac., & G. 418) the debtor covenanted to pay his debts in full by certain instalments, and to carry on and wind up his business under inspection, and that if he should be taken in execution, or for any other cause the inspectors should think such a course advisable, the inspectors might take possession of and administer his estate for the benefit of the creditors. The deed authorised the debtor to retain a weekly allowance for himself and his family, and to retain the dividends on the debts of non-executing creditors until they should execute the deed. The deed was, therefore, clearly invalid, but the grounds on which it was held to be so are not very clearly defined in the reported judgments of the Lords Justices. Sir G. J. Turner, L. J.—"I think the estate must be given up to the creditors in all events, and not in certain events only, and in terms which are clear and unequivocal, and not open to future dispute or difficulty. This deed does not appear to me to amount to such a disposition of this trader's estate. Independently of any other considerations arising on it, I think it at least open to doubt whether, in the event of this trader's death within the three years mentioned in the deed, the trustees could recover any part of the property against the representatives of the petitioner, in whom it would be legally vested."

In the same case it was held that the commissioner in bankruptcy might look into the deed, and was not bound to certify that the deed had been executed by the required number of creditors, unless he was satisfied that it was a deed within the meaning of the act.

It is perfectly clear that the deed must not confine its benefits to the executing or assenting creditors, but must provide for the distribution of the estate among all the creditors. (*Bloomer* v. *Darke*, 2 C. B., N. S., 165).

The provisions in the act are defective in not defining the time or event which is to determine the class of creditors to come in under the deed. But it is presumed that the time would be held to be the time of execution by the debtor, and that creditors becoming so after that time would be excluded; or, if the deed expressly provided for the admission of subsequent creditors, it would be invalid. In *Macnaught* v. *Russell* (1 H. & Norm. 611) a deed dated the 1st February, 1856, provided that the trader's works should be carried on for the benefit of his creditors, and his estate distributed as if he had been adjudged bankrupt on the 12th February, 1856, and as if the debts of creditors, parties thereto, had been the debts proved under the bankruptcy. The creditors covenanted not to sue, and that, if they sued, their covenant might be pleaded as a release, and their debts should be forfeited. The deed was not set out fully on the plea; and to an objection on demurrer, that the deed only provided for the creditors who were parties, the Court answered, that taking the whole statement in the plea, that did not appear to be so. It was no objection that there was no provision for creditors coming in between the 1st and the 12th, because it did not appear that there were any such creditors; and the provision for forfeiture of the debts of creditors suing was not unreasonable, because only binding on the executing creditors. It was further held, that as only one notice of the deed is required, that can be a notice only of the execution of it by the trader, and not of its execution by six-sevenths of the creditors. The three months run from the notice of the suspension of payment and that the deed is ready for execution. (See *March* v. *Higgins*, 9 C. B. 551).

The suspension of payment referred to incidentally in the 225th section is either an actual stoppage of payment, or the state of things contemplated in the preceding section—inability to pay debts. The execution of the deed is a sufficient suspension of payment to give the Court jurisdiction to grant the certificate. (*Phillips* v. *Surridge*, 9 C. B. 743). In pleading the deed, it is unnecessary to set out the clauses, or the names of the assenting creditors. (Ib.)

As to the practice in opposition to the certificate, see *Ex parte Mortimer* (3 De G. & S. 649) and *Ex parte Lees*, (4 De G. & S. 284).

As to the retrospective operation of the act, see *Largent* v. *Bibby*, (5 H. L. C. 481); *March* v. *Higgins*, (9 C. B. 551); and *Waugh* v. *Middleton*, (8 Exch. 352).

PUBLIC EXAMINATION OF STUDENTS.

At the public examination of the students of the Inns of Court, held at Lincoln's Inn Hall, on the 29th, 30th, and 31st October, 1857, the Council of Legal Education awarded to—

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By order of the Council,
(Signed) Richard Bethell, Chairman.

Court Papers.

NEW CAUSES SET DOWN IN MICHAELMAS TERM, 1857.

QUEEN'S BENCH.

Midd.—Brook *v.* Aston
,, Betts *v.* Menzies
,, Froom *v.* Ashdown
,, Carr & an. *v.* Chapple
,, Reg. *v.* Fairrie & ors.
,, Le Neve *v.* Vestry of the Hamlet of Mile End Old Town
Lond.—Seed *v.* Higgins
,, Beckwith *v.* Bullin
,, Dacy *v.* South-eastern Railway Co.
,, Elkins *v.* Murphy
,, Newall *v.* Webster
,, Lee & ors. *v.* Bullen
,, Prince of Wales Life & Educational Assurance Company *v.* Harding
Bucks—Brown *v.* Collier
Bristol—Begley & ors. *v.* Fry & an.
Bristol—Blackmore *v.* Bristol and Exeter Railway Co.
Denbigh—Brellesford *v.* Berry
Essex—Clark *v.* Stormont
,, Pallier *v.* Papineau
Sussex—Woods *v.* May
Herts—Ransom *v.* Goodwin
Glos'ter—Miller *v.* Draper
,, Haddock *v.* Trotman
Oxford—Reg. *v.* Inhabs. of Temple Fowley
,, Same *v.* Inhabs. of St. Clement
York—Hall *v.* Carlton
,, Woolliscroft *v.* Watson
,, Reg. *v.* Jowett
Lancaster—Thistlewood *v.* Lambert
,, Lancaster & Carlisle Railway Co. *v.* Heaton & an.

COMMON PLEAS.

Chester—Highfield *v.* Massey
Lond.—Gresler & ors. *v.* King
Liverpool—Assop *v.* Yates
Durham—Kendall *v.* Allison
Lond.—General Steam Navigation Co. *v.* Rolt
Essex—Fitzgerald *v.* Martin
Midd.—Perry *v.* Davis & ors.
Bristol—Hybart *v.* Evens
Lond.—Moor *v.* Roberts
Lond.—Risbourgh *v.* Bruckner & an.
Surrey—Patent Bottle Envelope Co. *v.* Seymer
Lond.—London and Eastern Banking Corporation *v.* Cubitt
Surrey—Haynes *v.* Mechi
Lond.—Moses *v.* Taylor
Surrey—Sydney *v.* Nicol.

EXCHEQUER.

Midd.—Glave *v.* Harding
,, National Assurance Co. *v.* Best
,, Price *v.* Burva
,, Burling *v.* Harley
Lond.—Bryant *v.* National Savings Bank Association
,, Furness *v.* Meek
,, Whitemore *v.* Northcott
,, Davies *v.* Underwood
,, Hudson *v.* Baxendale
Maidstone—Shilling *v.* Accidental Death Assurance Co.
,, Weston *v.* Beeman
Croydon—Attenborough *v.* Clark
,, Botcherby *v.* Branmont
Monmouth—Latch *v.* Rumney Railway Co.
,, Chapman *v.* Monmouth Railway and Canal Co.
Monmouth—Jones *v.* Same
Durham—Huntley *v.* Simson
Newcastle—Gibson *v.* Dorg
,, Same *v.* Same
,, Suter *v.* Burrell
Liv'pool—M'Mamus *v.* Lancashire & Yorkshire Railway Co.
,, Vose *v.* Same
,, Manley *v.* St. Helens Canal & Railway Co.
Camb.—Phillips *v.* Naylor
Ruthin—Rogers *v.* Taylor
Mold—Williams *v.* Eyton
Chester—Read *v.* Hughes
Winchester—Lee *v.* Dashwood
Bodmin—Ley *v.* Peter
Bristol—Gurney *v.* Evans
North'ton.—Bower *v.* Morley
Warwick—Hobson *v.* Cowley
,, Atkinson *v.* Buswell
Haverfordwest—Williams *v.* Morgan
Brecon—Price *v.* Price & ors.

Middlesex, corn merchant.—*William Standing*, Kingsland-crescent, Kingsland-road, engineer.—*C. Baker*, Southampton, timber merchant.—*Thomas Henry May*, Rathbone-place, Oxford-street, flour dealer.—*William Gibbon*, Spenny-moor, Durham, grocer.—*Henry Heathcote Statham*, Liverpool, attorney-at-law.—*John Longton*, Liverpool, ship broker.—*James Phillips*, Audlem, Cheshire, draper.—*Joseph Bradbury Robinson*, Macclesfield, Cheshire, hosier.—*John Barton*, Manchester, copper roller manufacturer.

Partnership Dissolved.

Timothy Tyrrell, *Thomas Paine*, and *Thomas E. Layton*, attornies, solicitors, and parliamentary agents.

Scotch Sequestrations.

John Leslie, Partick, mason.—*Andrew Stewart & Co.*, Greenock, merchants.—*Adam Patterson*, Port Glasgow, timber merchant.

Tuesday, *Nov.* 10.

Bankrupts.

WILLIAM CHARLES BARNES and WILLIAM CORDINGLEY, Bow-common, Middlesex, manufacturing chemists, Nov. 25 and Dec. 22 at 2, London: Off. Ass. Graham; Sols. Marten & Co., 31 and 35, Commercial Sale-rooms, Mincing-lane.—Pet. f. Nov. 9.

ROBERT BRADLEY, Trafalgar-road, Old Kent-road, Camberwell, and Cumberland-place, St. George the Martyr, Southwark, Surrey, manufacturer of paper hangings, (a prisoner for debt in the Prison of Surrey), Nov. 20 at 1, and Dec. 19 at 11, London: Off. Ass. Whitmore; Sol. Spicer, 5, Staple-inn.—Pet. f. Oct. 31.

JAMES ROBERT PAGE, Wellington-chambers, Cannon-street West, London; Hobury-street, Chelsea, Middlesex; Creevelea Iron and Coal Works, Leitram, Ireland; and now a prisoner in the Queen's Bench Prison, iron manufacturer, (trading under the style of the Creevelea Iron and Coal Works), Nov. 18 and Dec. 23 at 12, London: Off. Ass. Stansfeld; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. Nov. 9.

CHARLES WARWICK, Friday-street, Cheapside, fancy dress warehouseman, (trading under the name of Charles Warwick, jun., & Co.), Nov. 24 and Dec. 24 at 12, London: Off. Ass. Bell; Sols. Reed & Co., 59, Friday-street, Cheapside.—Pet. pres. Nov. 2.

WILLIAM BENJAMIN PHILLIPS, Birmingham, bolt manufacturer, Nov. 20 and Dec. 10 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Southall & Nelson, Birmingham.—Pet. d. Nov. 3.

JOHN TURTON, Nottingham, lace manufacturer, Nov. 24 and Dec. 15 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. Nov. 6.

CHARLES GRAY, Cheltenham, baker, Nov. 23 and Dec. 28 at 11, Bristol: Off. Ass. Miller; Sols. Miller, Bristol; Williams, Cheltenham.—Pet. f. Nov. 9.

CHARLES EDWARD MERRY, St. Augustine's Parade, Bristol, grocer, Nov. 23 and Dec. 28 at 11, Bristol: Off. Ass. Acraman; Sols. Strickland, Bristol; Harris, Bristol.—Pet. f. Nov. 9.

JOHN SCOTT PERKIN, Bruntcliff, Batley, Yorkshire, builder, Nov. 23 at 12, and Dec. 21 at 11, Leeds: Off. Ass. Hope; Sols. Terry & Watson, Bradford; Bond & Barwick, Leeds.—Pet. d. Nov. 7.

WILLIAM BARBER, Dunston, Derbyshire, cattle dealer, Nov. 21 and Dec. 19 at 10, Sheffield: Off. Ass. Brewin; Sols. Cutts, Chesterfield; Smith & Burdekin, Sheffield.—Pet. d. and f. Oct. 31.

WILLIAM STEVENSON, Sheffield, Yorkshire, cooper, Nov. 21 and Dec. 19 at 10, Sheffield: Off. Ass. Brewin; Sols. Branson & Son, Sheffield.—Pet. d. and f. Nov. 7.

SAMUEL HAWKINS NAPIER and JOHN HEWITSON, Liverpool, ship chandlers, Nov. 26 and Dec. 11 at 11, Liverpool: Off. Ass. Bird; Sols. Neal & Martin, Liverpool.—Pet. f. Nov. 6.

JOSEPH SLATER PLATT and HENRY SUTCLIFF, Manchester, commission agents, Nov. 26 and Dec. 11 at 12, Manchester: Off. Ass. Hernaman; Sols. Higson & Robinson, Manchester.—Pet. f. Nov. 4.

WILLIAM HARRISON, Rochdale, Lancashire, draper, Nov. 20 and Dec. 11 at 1, Manchester: Off. Ass. Hernaman; Sols. Cooper & Sons, Manchester.—Pet. f. Oct. 31.

Meetings.

William Finch, Bartholomew-lane, City, wine merchant, Nov. 21 at 11, London, aud. ac.—*Richard Fernell*, Aldermanbury, City, commission agent, Nov. 21 at 11, London, aud. ac.—*Frederick Francis Shaw*, Blackfriars-road, Surrey, ironmonger, Nov. 23 at 11, London, aud. ac.—*Robert Forster Alden*, Norwich, tinman, Nov. 23 at 11, London, aud. ac.—*Edward Rowland* and *Thomas Evans*, Coleman-street, New North-road, builders, Nov. 20 at 11, London, aud. ac.—*Joseph Hill*, Chester, cordwainer, Nov. 25 at 11, Liverpool, aud. ac.; Dec. 7 at 11, div.—*Joseph Stephenson*, Winterton, Lincolnshire, innkeeper, Dec. 2 at 12, Kingston-upon-Hull, aud. ac. and div.—*William Stock*, Newton, near Warrington, Lancashire, glass manufacturer, Nov. 23 at 11, Liverpool, aud. ac.; Dec. 1 at 11, div.—*Sarah Patrick*, Worcester, butcher, Nov. 20 at half-past 11, Birmingham, aud. ac.—*William Glover*, Liverpool, innkeeper, Nov. 23 at 11, Liverpool, aud. ac.—*George Atkinson*, Lincoln, commission agent, Dec. 2 at 12, Kingston-upon-Hull, aud. ac. and div.—*Benjamin Collis*, Bishop's Stortford, Hertfordshire, draper, Dec. 1 at half-past 11, London, div.—*Edward John Howard*, Duke-street, St. James's, Westminster, money scrivener, Dec. 1 at 12, London, div.—*James Watling Knights*, Ipswich, Suffolk, corn merchant, Dec. 1 at 11, London, div.—*George M'Millan*, Bennett-street, Blackfriars-road, Surrey, draper, Dec. 2 at 11, London, div.—*Samuel Murfin*, Litchurch, Derbyshire, innkeeper, Dec. 1 at half-past 10, Nottingham, aud. ac. and div.—*Thomas Foxley*, Birmingham, grocer, Dec. 2 at 10, Birmingham, div.—*John Edwardes*, Wolverhampton, Staffordshire, wine merchant, Dec. 2 at 10, Birmingham, div.—*John Mottram*, Shrewsbury, Shropshire, hop merchant, Dec. 2 at 10, Birmingham, div.—*Charles William Hill*, Digbeth, Birmingham, anvil maker, Dec. 2 at 10, Birmingham, div.—*John Jones*, Ledbury, Herefordshire, brewer, Dec. 2 at 10, Birmingham, div.—*David Buckler*, Birmingham, builder, Dec. 3 at half-past 11, Birmingham, div.—*James Watts*, Norton Saint Philips, Somersetshire, innholder, Dec. 17 at 11, Bristol, first and fin. div.—*Wm. W. Jones*, Portmadoc, Carnarvonshire, shipbuilder, Dec. 3 at 11, Liverpool, div.—*Michael Stepanoff*, Liverpool, merchant, Nov. 19 at 11, Liverpool, div.—*James Phillips*, Audlem, Cheshire, draper, Dec. 1 at 11, Liverpool, div.—*Thomas Lawrenson*, Liverpool, ship smith, Dec. 2 at 11, Liverpool, div.—*Christopher Fairlamb*, Newcastle-upon-Tyne, cheesemonger, Dec. 4 at half-past 11, Newcastle-upon-Tyne, div.—*John H. Brown* the younger, Newcastle-upon-Tyne, commission merchant, Dec. 1 at 1, Newcastle-upon-Tyne, div.

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Morris Moss, Somers-place, New-road, St. Pancras, coach broker, Dec. 2 at half-past 2, London.—*John F. A. Minch*, Mincing-lane, City, commission merchant, Dec. 2 at half-past 1, London.—*Wm. Tent*, Royal Exchange, City, hosier, Dec. 4 at 1, London.—*Charles Stanley Bevan* and *Charles Southern Bevan*, Street's-buildings, Chapel-street, Grosvenor-square, bookbinders, Dec. 4 at 2, London.—*George Beaven*, Chippenham, Wiltshire, cordwainer, Dec. 7 at 11, Bristol.—*Christopher Fairlamb*, Newcastle-upon-Tyne, cheesemonger, Dec. 4 at 12, Newcastle-upon-Tyne.—*John Cowan*, Newcastle-upon-Tyne, cheesemonger, Dec. 2 at 1, Newcastle-upon-Tyne.—*John H. Brown* the younger, Newcastle-upon-Tyne, commission merchant, Dec. 2 at half-past 12, Newcastle-upon-Tyne.—*Willmott Gabriel*, Stockport, Cheshire, cotton spinner, Dec. 2 at 1, Manchester.—*Wm. Glover*, Liverpool, innkeeper, Dec. 1 at 11, Liverpool.—*Charles Brown*, Birmingham, leather dealer, Dec. 7 at 10, Birmingham.—*Thomas Welborn Potter*, York, corn merchant, Dec. 8 at 11, Leeds.—*Charles P. Burnett*, Lincoln, tailor, Dec. 2 at 12, Kingston-upon-Hull.

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GAZETTES.—Friday, *Nov.* 13.

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ALFRED SHUCKFORTH FRANCIS and GEORGE AUSTEN, Cheapside, warehousemen, Nov. 24 and Dec. 24 at 1, London: Off. Ass. Johnson; Sol. Murray, London-street, Fenchurch-street.—Pet. f. Nov. 11.

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THOMAS SMITH DEEKER, Wardour-street, St. James's, upholsterer, Nov. 28 at 1, and Dec. 29 at 12, London: Off. Ass. Edwards; Sol. Evans, 10, John-street, Bedford-row.—Pet. f. Nov. 12.

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WILLIAM GRANGER, Wolverhampton, Staffordshire, licensed victualler, Nov. 26 and Dec. 17 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Mason, Bilston; James & Knight, Birmingham.—Pet. d. Nov. 11.

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THOMAS MARPLES, Litchurch, Derbyshire, mill-stone manufacturer, Nov. 24 and Dec. 18 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Gamble, Derby.—Pet. d. Nov. 10.

WILLIAM AULTON and JOHN SAUNDERSON BUTLER, Nottingham, lace manufacturers, Nov. 27 and Dec. 18 at 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. Nov. 4 and 10.

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OLIVER MORGAN LILLY and ELIZABETH ELEANOR M'DOWALL, Bristol, timber merchants, Nov. 24 and Dec. 22 at 11, Bristol: Off. Ass. Acraman; Sols. Harris, Bristol; Bevan, Bristol.—Pet. f. Oct. 28.

JOHN DODD, Llanelly, Breconshire, hay dealer, Nov. 24 and Dec. 22 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan & Girling, Bristol.—Pet. f. Nov. 10.

JOHN JOHNSON, Wakefield, Yorkshire, upholsterer, Nov. 26 and Dec. 18 at 11, Leeds: Off. Ass. Young; Sols. Taylor, Wakefield; Bond & Barwick, Leeds.—Pet. d. and f. Nov. 10.

JAMES BLACKETT, Leeds, grocer, Nov. 26 and Dec. 18 at 11, Leeds: Off. Ass. Young; Sol. Simpson, Leeds.—Pet. d. and f. Nov. 9.

BENJAMIN BARTON, Leeds, grocer, Nov. 30 and Dec. 21 at 11, Leeds: Off. Ass. Hope; Sol. Barret, Leeds.—Pet. d. Nov. 10.

THOMAS RICHARDSON HYDE, Chester, clothier, Nov. 26 and Dec. 17 at 11, Liverpool: Off. Ass. Bird; Sol. Livett, Manchester.—Pet. d. Oct. 20; f. Oct. 27.

JAMES MACKAY, Liverpool, timber merchant, (lately carrying on business with John Mackay and William Rutherford, under the firm of Mackay, Rutherford, & Co.), Nov. 27 and Dec. 24 at 11, Liverpool: Off. Ass. Bird; Sol. Peel, Liverpool.—Pet. f. Nov. 12.

JOHN MACKAY, Liverpool, timber merchant, (lately carrying on business with James Mackay and William Rutherford, under the firm of Mackay, Rutherford, & Co.), Nov. 27 and Dec. 24 at 11, Liverpool: Off. Ass. Bird; Sol. Peel, Liverpool.—Pet. f. Nov. 12.

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JAMES ORMESHER and WILLIAM ORMESHER, Manchester and Blackley, Lancashire, silk manufacturers, (trading under the style or firm of James & William Ormesher), Nov. 23 and Dec. 14 at 1, Manchester: Off. Ass. Pott; Sols. Boote & Jellicorse, Manchester.—Pet. f. Sept. 3.

JOHN CHAPMAN, Hartlepool, Durham, grocer, Nov. 23 at 11, and Dec. 22 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Watson, Newcastle-upon-Tyne; Harwood, 10, Clement's-lane, Lombard-street.—Pet. f. Nov. 9.

MOSES SEYMOUR, Llangenneck, Carmarthenshire, and Rodridge Colliery, and MARTYN SEYMOUR, Rodridge Colliery, Durham, brickmakers, Nov. 27 at 12, and Dec. 22 at 1, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hoyle, Newcastle-upon-Tyne; Crosby, Church-court, Old Jewry, London.—Pet. f. Nov. 11.

Meetings.

Morris Roberts Syers, *James Walker*, and *Daniel Backhouse Syers*, Ball-alley, Lombard-street, London, and Liverpool, dealers and chapmen, Nov. 25 at 11, London, pr. d.—*Thomas Bruce Cooper*, York-place. Old Kent-road, Surrey, builder, Nov. 24 at 1, London, last ex.—*Watson White*, Bishopwearmouth, Durham, grocer, Nov. 26 at 1, Newcastle-upon-Tyne, last ex,—*Thomas Taylor*, Osborn-street, Blackheath, grocer, Nov. 25 at 12, London, aud. ac.—*George Bear*, Sudbury, Suffolk, butcher, Nov. 25 at 12, London, aud. ac.—*Wm. Standing*, late of Whitechapel-road, but now of Kingsland-crescent, Kingsland-road, Middlesex, engineer, Nov. 25 at half-past 1, London, aud. ac.—*Thomas James Dore*, Stour Provost, Dorsetshire, innkeeper, Dec. 1 at 11, London, aud. ac.—*Robert Hudson*, late of Great St. Helens, London, and now of Southampton-street, Strand, Middlesex, ship broker, Nov. 30 at 11, London, aud. ac.—*Richard Duncan*, Lime-street, City, wine merchant, Nov. 25 at 11, London, aud. ac.—*Robt. Wilby*, Prince of Wales-road, Camden-town, licensed victualler, Nov. 25 at 11, London, aud. ac.—*Stephen Froud*, Great Western-road, Paddington, licensed victualler, Nov. 28 at 12, London, and. ac.—*Robert C. Cream*, Rushall, Wiltshire, apothecary, Dec. 17 at 11, Bristol, and. ac.—*Robert Atkinson*, Sunderland, Durham, draper, Nov. 25 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Gilbert Hodgson* and *William Atcheson*, Sunderland, Durham, timber merchants, Nov. 26 at half-past 11, Newcastle-upon-Tyne, aud. ac. sep. est. of *William Atcheson*.—*Samuel Starmer*, Wolverhampton, Staffordshire, shoe manufacturer, Nov. 23 at half-past

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THE JURIST.

LONDON, NOVEMBER 21, 1857.

ON a former occasion (2 Jur., N. S., part 2, p. 343) we offered some observations on the case of *Benson* v. *Paul*, (6 El. & Bl. 273; 2 Jur., N. S., part 1, p. 425), and submitted that the Court of Queen's Bench had placed too narrow a construction upon the mandamus clauses in the Common-law Procedure Act, 1854, (sects. 68—77). The actual decision in that case was, that a mandamus would not be granted under the act to compel specific performance of a contract by which the defendant agreed to accept a lease from the plaintiff; but a dictum in the judgment of Lord Campbell, C. J., went far beyond the decision, and was to the effect, that a mandamus under the act could be granted only in the cases in which the prerogative writ of mandamus was grantable before the act. This case, however, was recently brought before the same Court, (*Norris* v. *The Irish Land Company*, Nov. 17), and Lord Campbell, C. J., took the opportunity of stating, that, on consideration, he felt that this dictum could not be supported; and both his Lordship and the other learned judges of the court expressed their opinion that the words used by the Legislature were wide enough to include cases to which the prerogative writ of mandamus was not applicable. The precise limits, however, within which this extended remedy will be applied were not defined by the Court, nor was it necessary to define them for the decision of the case then before the Court. The declaration stated the incorporation by royal charter of the Irish Land Company, and that by such charter a deed of settlement was to be executed, containing provision (among other things) for the registration of shareholders. The administrator of a deceased shareholder required the company to register him as owner of the shares pursuant to the deed, and on their refusal claimed a mandamus for that purpose. On demurrer to this claim the Court said that they thought a mandamus would have been granted under these circumstances before the act in question; that a register of shareholders is a matter of a public nature, (see *Reg.* v. *The Derbyshire Railway Company*, 23 L. J., Q. B., 333); that there is no real distinction between a company incorporated by charter and by statute; and that the remedy by mandamus had been considerably extended in modern times on account of its beneficial character. They were further of opinion, that at all events, since the statute, a mandamus might be claimed in the case before them, as the duty to be performed was a simple act, not requiring the machinery of a Court of Chancery, or the exercise of any powers beyond those possessed by a Court of common law.

It is true that in *Rex* v. *The London Insurance Company* (5 B. & Al. 899) a prerogative writ of mandamus was refused under somewhat similar circumstances, upon the ground that it would not lie to regulate the internal affairs of a company. To the same effect is *Rex* v. *The Bank of England*, (2 B. & Al. 620), but that case also involved the taking an account. (See also *Rex* v. *Clear*, 7 D. & Ry. 395, and *Ex parte*

Robins, 7 Dowl. 56). On the other hand, it is stated in Com. Dig., tit. "Mandamus," A., that the writ lies to enforce execution of the King's charter; and in an anonymous case (2 Str. 696) it was granted to swear in a director of the Amicable Insurance Company, created by royal charter. In *Rex* v. *The Worcester Canal Company* (1 Man. & R. 529) this writ went to compel the company to register the probate of the will of a deceased shareholder; and in several modern cases rules have been granted for writs of mandamus to compel the registration of transfers of shares, and no objection has been made that the writ would not lie. (See *Reg.* v. *The Londonderry Railway Company*, 13 Q. B. 998; *In re Hall*, 21 L. J., Q. B., 94; *Reg.* v. *The Liverpool Railway Company*, Id. 284; and *Reg.* v. *The General Cemetery Company*, 25 L. J., Q. B., 342).

NOTES OF RECENT CASES.

THE case of *Chapman* v. *Van Toll** came before the Court of Queen's Bench on the 9th instant, and, as had been generally anticipated, the ruling of Lord Campbell, C. J., at the trial was unanimously overruled by his three learned brethren, Coleridge, Wightman, and Erle, JJ. It will be remembered by our readers that the plaintiff, an attorney, sued the defendant for the amount of his bill of costs, and the defence was, that he had been guilty of such gross negligence as to disentitle him to recover them. It appeared that the plaintiff had been retained by the defendant to sue a debtor on a bond, and that after the writ had been accordingly issued, the debtor wrote to the attorney stating that he had paid a portion of such bond, and was willing to pay the residue, and the attorney then delivered the declaration, and proceeded in the ordinary course to trial; but when the time for execution came the debtor absconded, and no satisfaction of the judgment could be obtained. It was now contended that the attorney, on receiving the debtor's letter admitting part liability, should have proceeded, under the compulsory clauses of the Common-law Procedure Act, 1854, to refer the cause, instead of submitting the claim to a jury, and that not having done so, he could not recover his costs. Of this opinion was Lord Campbell, and the jury accordingly found for the defendant; but a new trial has now been granted on the ground of misdirection, inasmuch as the question in dispute was not so clearly "a matter of mere account, which could not be conveniently tried in the ordinary way," (sect. 3 of the Common-law Procedure Act, 1854), as to deprive the attorney of reward for his labour, or to expose him to an action for negligence. It was in fact as simple a case as a jury could have to try. It may be added, that it is very doubtful, upon the facts, whether, if the case had been referred, the debt would ever have been satisfied.

In *Swinfen* v. *Swinfen* the Master of the Rolls has refused to decree specific performance of the compromise entered into by Mrs. Swinfen's legal advisers, and has directed a new trial of the issue devisavit vel non.

The question as to what is a sufficient impounding of a distress for rent came before the Court of Queen's Bench on the 3rd instant, in the case of *Tennant* v. *Field*. A landlord had sent a person to distrain for rent; an inventory was taken and a man put in possession, but by the tenant's request nothing was removed. It was held that this was an impounding under the 11 Geo. 2, c. 19, and that the landlord was not bound afterwards to accept a tender of the rent.

Correspondence.

TO THE EDITOR OF "THE JURIST."

SIR,—The Court for the consideration of Crown Cases Reserved is one of high authority; its decisions are declaratory of the criminal law, and from those decisions there is no appeal. Its extreme usefulness in this respect cannot be overvalued, for it must be admitted that certainty in the definition of offences, and the amount of evidence necessary to sustain convictions—the two points to which the attention of that Court is principally directed—is a great desideratum in the administration of the criminal law. A Court, therefore, which enjoys these high powers should be as perfect as possible, not only in its constitution, of which no one can complain, but also in the means it has of arriving at correct conclusions. In this latter particular I think it is somewhat deficient, and I allude to the fact that all cases are not argued by counsel. It is a frequent occurrence that counsel are not instructed on either side, and in the majority of cases only on one side, generally for the prisoner. Thus, at the last sitting, (Saturday, the 14th inst.), three cases came before the Court in which no counsel appeared for the Crown, and in which, therefore, their Lordships were left to find arguments and hunt up cases in support of the convictions. Now, surely this is a state of things which ought not to exist. The research of counsel, and the full discussion which appertains to arguments on both sides, ought to be brought to bear upon questions the decisions of which are for ever after established authorities, upon which courts of assize and the sessions are bound to act. As regards prisoners, I can understand that their means will not always admit of counsel being instructed, but that is not so as regards the Crown. What I would suggest, therefore, is, that in all cases reserved, the counsel who have been engaged in the court below should be instructed to appear in the argument of the case; and if it should happen that there has been no prosecuting counsel below, then one, say the senior, should be selected from the assize or sessions bar. It might also be well that in cases of real poverty on the part of prisoners, counsel should be assigned them. It should be the duty of the clerks of assize on the circuits, and clerks of the peace at sessions, to see that every case reserved from their respective courts should be thus duly argued by counsel. My object, however, in addressing you is to point out what appears to me a serious defect in the working of the present system. The defect once acknowledged, a remedy may easily be found.

G.

TO THE EDITOR OF "THE JURIST."

SIR,—The author of the article in to-day's JURIST on "Arrangements by Deed under the Bankrupt-law Consolidation Act, 1849," has overlooked the Amendment Act, 17 & 18 Vict. c. 119, the 25th section of which allows a bankrupt to retain 20*l.* worth of "household furniture, and tools, implements of trade, and other like necessaries, as he shall specify and select." I apprehend that a deed of arrangement made since the above statute would now be valid, although it allowed the debtor to retain 20*l.* worth of things.

I am &c.,

Nov. 14. M.

[The article sufficiently shews that the writer had the 25th section of the 17 & 18 Vict. c. 119, in his mind, since it points out the difference between the position of a debtor under an arrangement deed, and that of a bankrupt under that act, in these words:—"Hence it appears that a trader who proposes to take advantage of these clauses must place himself in a worse position than he would be in in bankruptcy.

---

* This case will be reported in our next number.

He cannot reserve his wearing apparel, or any part of his furniture, and he cannot stipulate for an allowance for his bare subsistence." In *March* v. *Warwick* (1 H. & Norm. 158) it was held, that an exception of the necessary wearing apparel of the bankrupt and his family invalidated the deed. But when that deed was executed the law allowed a bankrupt to retain such apparel; and this was urged with great force in favour of the provisions in the deed. We think, however, that these decisions require to be reconsidered, or, which would be better, the act should be redrawn by a competent hand.—Ed.]

GENTLEMEN CALLED TO THE BAR.

The following gentlemen have been called to the degree of Barrister at Law:—

Lincoln's Inn.—Sylvester Joseph Hunter, Esq., B.A., (holder of the studentship awarded in Michaelmas Term, 1857); George Waugh, jun., Esq., LL. B., (certificate of honour, first class); Alfred Wilson, Esq., B. A.; Eugenius Stewart Roche, Esq.; Wyndham Horatio Nelson Hoste, Esq.; John Hornby, Esq., B. A.; Samuel Courthope Bosanquet, Esq., M. A.; Rupert Poffer, Esq., B. A.; Almaric Rumsey, Esq., B. A.; Edward Graham Alston, Esq., B. A.; Frederick Joseph Sydney Edgcombe, Esq., M. A.; Edward Levi Ames, Esq., M. A.; Henry Thomas Stephen Dicey, Esq., B. A.; Douglas Spencer Meadows, Esq., B. A.; William Page Thomas Phillips, Esq., B. A.; Wyndham Holgate, Esq., M. A.

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Liverpool	*Nov.* 28	Wightman, J.
York	*Dec.* 2	Williams, J.
Worcester	3	Martin, B.
Gloucester	7	
Stafford	10	
Cardiff	17	
Northampton	3	Crompton, J.
Nottingham	5	
Lincoln	9	
Durham	15	
Northumberland	19	
Maidstone	1	Willes, J.
Hants	7	
Devon	12	
Somerset	18	
Chester	3	Channell, B.
Derby	12	
Warwick	16	

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Major-General Robert George Hughes, Brynddu.
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Radnorshire—Sir Wm. S. R. Cockburn, Bart., Downton.
Howell Gwynne Howell, Esq., Llanelwedd Hall.
John Adcock Phillips, Esq., Gunama.

10, Birmingham, aud. ac.; Dec. 7 at half-past 10, div.—*R. Greene*, Lichfield, banker, Nov. 26 at half-past 11, Birmingham, aud. ac.; Dec. 4 at half-past 11, div.—*Robert Atkinson*, York, hairdresser, Dec. 1 at 11, Leeds, aud ac.—*John Henry Collins*, Halifax, Yorkshire, draper, Nov. 26 at 11, Leeds, aud. ac.—*Stephen Greaves*, Eccleshall, Yorkshire, cloth manufacturer, Nov. 26 at 11, Leeds, aud. ac.—*Joseph Blakey Spencer*, Halifax, Yorkshire, joiner, Nov. 26 at 11, Leeds, aud. ac.—*John Norton*, Norwich, corn merchant, Dec. 4 at 11, London, div.—*Henry Stuart* and *Richard Kennett*, Cork-street, Burlington-gardens, Middlesex, tailors, Dec. 8 at 1, London, fin. div. sep. est. of *Richard Kennett*.—*Charles Tiot Judkins*, Manchester, and Cannon-street West, City, sewing-machine manufacturer, Dec. 9 at 12, Manchester, aud. ac.; Dec. 16 at 12, div.—*Joseph Mascall*, Wolverhampton, Staffordshire, grocer, Dec. 5 at half-past 11, Birmingham, div.—*H. Liversidge*, Eckington, Derbyshire, surgeon, Dec. 5 at 10, Sheffield, div.—*W. H. Dickinson*, Sheffield, Yorkshire, table-knife manufacturer, Dec. 5 at 10, Sheffield, div.—*George Clayton* and *George Crookes*, Sheffield, Yorkshire, grocers, Dec. 5 at 10, Sheffield, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Hermann Busck, Coleman-street-buildings, Moorgate-st., City, merchant, Dec. 7 at 11, London.—*Robert Chevallier Cream*, Rushall, Wiltshire, apothecary, Dec. 15 at 11, Bristol.—*Thomas Stutely*, Sheerness, Kent, stonemason, Dec. 7 at 12, London.—*Wm. Keeth*, Exeter, innkeeper, Dec. 17 at 11, Exeter.—*Thomas Frear*, Manchester, draper, Dec. 4 at 12, Manchester.—*John Barlon*, Manchester, silk manufacturer, Dec. 4 at 12, Manchester.—*Samuel Burgess*, Wharton, Cheshire, salt manufacturer, Dec. 8 at 11, Liverpool.—*R. Sutton* and *Wm. Haywood*, Liverpool, booksellers, Dec. 7 at 11, Liverpool.—*Thomas Wheeler* the younger, Poston Mill, Vowchurch, Herefordshire, miller, Dec. 7 at 10, Birmingham.—*Samuel Bache* and *Samuel Tertius Bache*, Birmingham, jewellers, Dec. 7 at 10, Birmingham.—*Grace Simonite*, Birmingham, iron-plate worker, Dec. 7 at 10, Birmingham.

To be granted, unless an Appeal be duly entered.

Wm. Billington Mills, Great Berkhampstead, Hertfordshire, brewer.—*Hugh Lapraik*, Harrison-street, Gray's-inn-road, draper.—*Thomas Eldridge*, Upper North-place, Gray's-inn-road, and Brownlow-mews, Guildford-street, coachmaker.—*Timothy Wooster*, Cheltenham, Gloucestershire, seedsman.—*David Johns*, Cardiff, Glamorganshire, draper.—*Charles Stonley*, Bishopwearmouth, Durham, builder.—*Hector Melville*. Liverpool, cooper.—*John Overton Hobson*, Long Sutton, Lincolnshire, corn merchant.—*George Shearcroft*. Long Sutton, Lincolnshire, grocer.—*T. Mason*, New Mills, near Ashbourne, Derbyshire, cotton spinner.—*George Jonathan Robinson*, Nottingham, silk merchant.—*Anthony Garforth*, *Paul Garforth*, and *Enoch Garforth*, Earlsheaton, Yorkshire, manufacturers.—*Wm. Leake*, Holme, Almondbury, Yorkshire, cattle dealer.—*Benjamin Canter*, Barnsley, Yorkshire, cloth merchant.—*Wm. Heron*, Huddersfield, Yorkshire, merchant.—*U. Wimpenny*, Holme Bridge, Almondbury, Yorkshire, woollen-cloth manufacturer.—*Matthew Sheard Beaumont*, Huddersfield, Yorkshire, corn dealer.

PETITION ANNULLED.

James Thomas Rundle and *Bicton Hull Rundle*, Plymouth, Devonshire, linendrapers.

SCOTCH SEQUESTRATIONS.

David Park, Glasgow, warehouseman.—*John Fawkner*, Glasgow, upholsterer.—*James Lawrie*, Kelso, bookseller.—*Alexander King*, Perth, grocer.—*Joseph Hare*, Edinburgh.—*John Monteith & Co.*, Glasgow, calico printers.—*Peter Comrie*, Perth, painter.—*Robert Watt*, Glasgow, commission merchant.

TUESDAY, *Nov.* 17.

BANKRUPTS.

JOHN SHERWOOD, Faversham and Sittingbourne, Kent, watchmaker, Nov. 26 at 2, and Dec. 29 at 12, London: Off. Ass. Bell; Sol. Spyer, Broad-street-buildings, London.—Pet. f. Nov. 4.

GEORGE SEAMAN, Eton, Buckinghamshire, grocer, Dec. 2 at 12, and Dec. 23 at 11, London: Off. Ass. Pennell; Sol. Howard, 30, Nicholas-lane, City.—Pet. f. Nov. 16.

THOMAS BARNABY, Woolwich, Kent; Borough-market, Southwark; and High-street, Kingsland, Middlesex, tallow chandler, Nov. 27 and Dec. 31 at 11, London: Off. Ass. Bell; Sols. Venning & Co., Tokenhouse-yard.—Pet. f. Nov. 16.

NATHAN HERRMANN, Great St. Helens, Bishopsgate-street, merchant, Nov. 30 at 11, and Dec. 21 at 1, London: Off. Ass. Nicholson; Sol. Chidley, 10, Basinghall-street.—Pet. f. Nov. 13.

RICHARD SANDERS, Doughty-street and Brownlow-mews, Gray's-inn-road, builder, (lately trading with Edward Woolcott, deceased, under the firm of Sanders & Woolcott), Dec. 2 at 1, and Dec. 23 at 12, London: Off. Ass. Pennell; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. Nov. 17.

THOMAS DAY, Birch, Essex, victualler, Dec. 2 at 11, and Dec. 21 at 2, London: Off. Ass. Pennell; Sol. Jones, 14, Gresham-street, London, and Colchester, Essex.—Pet. f. Nov. 11.

ROBERT SMITHER, Winchester, Southampton, miller, Dec. 1 at 1, and Jan. 8 at 11, London: Off. Ass. Stansfeld; Sols. Walker & Jerwood, 12, Furnival's-inn, Holborn.—Pet. f. Nov. 13.

JAMES HAWKINS, late of Lee, Kent, licensed victualler, but now of Rokeby-road, Deptford, Kent, out of business, Dec. 1 at 1, and Dec. 23 at half-past 12, London: Off. Ass. Graham; Sol. Peddell, 142, Cheapside, London.—Pet. f. Nov. 13.

WILLIAM MILES, New Corn-market, Mark-lane, London, and Hornchurch, Essex, corn merchant, Dec. 1 and 23 at 1, London: Off. Ass. Graham; Sols. G. & E. Hilleary, 5, Fenchurch-buildings.—Pet f. Nov. 14.

JAMES COLLIN, Fordham, near Soham, Cambridgeshire, horse dealer, Dec. 1 at half-past 2, and Dec. 29 at 1, London: Off. Ass. Lee; Sol. Howard, 9, Quality-court, Chancery-lane.—Pet. f. Nov. 16.

MARTHA JOHNSON, Cambridge-terrace, Hyde Park, boarding-school keeper, Dec. 1 at 1, and Dec. 29 at 12, London: Off. Ass. Edwards; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. Nov. 13.

ROBERT TRUE, Market Deeping, Lincolnshire, butcher, Nov. 27 and Dec. 18 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Brown, Lincoln.—Pet. d. Nov. 4.

JAMES FARNSWORTH, Codnor, Heanor, Derbyshire, joiner, Nov. 27 and Dec. 18 at half-past 10, Nottingham; Off. Ass. Harris; Sol. Sollory, Nottingham.—Pet. d. Nov. 14.

JAMES BENONI BARTLETT and **WILLIAM ANGEL BARTLETT**, Bristol, tailors, (trading under the style or firm of Bartlett, Brothers), Nov. 30 and Jan. 4 at 11, Bristol: Off. Ass. Miller; Sols. Abbott & Lucas, Bristol.—Pet. f. Nov. 11.

JOHN GUBBINS, Cymmer, near Pontypridd, Glamorganshire, grocer, Nov. 30 and Jan. 5 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan & Girling, Bristol.—Pet. f. Nov. 14.

JOHN MANN, Plymouth, Devonshire, ironmonger, Dec. 3 at 10, and Jan. 14 at 1, Plymouth: Off. Ass. Hirtzel; Sols. Edmonds & Sons, Plymouth; Stogdon, Exeter.—Pet. f. Nov. 11.

JOSEPH POOLE, Wellington, Somersetshire, innkeeper, Nov. 24 and Dec. 17 at 11, Exeter: Off. Ass. Hirtzel; Sols. Rodham, Wellington; Stogdon, Exeter.—Pet. f. Nov. 10.

GEORGE COOKE, Leeds, grocer, Nov. 27 and Dec. 18 at 11, Leeds: Off. Ass. Young; Sols. Bond & Barwick, Leeds.—Pet. d. and f. Nov. 16.

ANDREW FROOD, Liverpool, draper, Nov. 30 and Dec. 28 at 11, Liverpool: Off. Ass. Cazenove; Sol. Rymer, Liverpool.—Pet. f. Nov. 3.

ROBERT DURNING NUTTALL, Liverpool, and Aintree, near Liverpool, licensed victualler, Nov. 30 and Dec. 28 at 12, Liverpool: Off. Ass. Cazenove; Sol. Dodge, Liverpool.—Pet. f. Nov. 14.

HENRY SCHWABE, Liverpool and London, merchant, Nov. 30 and Dec. 30 at 11, Liverpool: Off. Ass. Morgan; Sols. Lowndes & Co., Liverpool.—Pet. f. Nov. 11.

MATTHEW WESTON the younger and **FRANK WESTON**, Manchester, cheese factors, (trading under the style or firm of Matthew & Frank Weston), Nov. 27 and Dec. 18 at 12, Manchester: Off. Ass. Hernaman; Sols. Cobbett & Wheeler, Manchester.—Pet. f. Nov. 14.

MEETINGS.

George Henry Sellers, Westbourne-park-road, Paddington, merchant, Nov. 27 at 2, London, last ex.—*Daniel Pinkstone*, Birmingham, licensed victualler, Dec. 10 at 12, London, last ex.—*Joseph Mascall*, Wolverhampton, Staffordshire, grocer, Nov. 28 at half-past 11, Birmingham, aud. ac.—*Robert Jackson* the younger, Lincoln, licensed victualler, Dec. 2 at 12, Kingston-upon-Hull, aud. ac.—*James Siddons*, Sheffield, Yorkshire, grocer, Nov. 28 at 10, Sheffield, aud. ac.—*Nils Wilhelm Wikman*, Minories, City, ship chandler, Dec. 9 at 11, London, div.—*John M'Millan*, Wolverhampton, Staffordshire, publican, Dec. 10 at half-past 11, Birmingham, div.—*Dixon Sharper*, West Hartlepool, Durham, ship chandler, Dec. 10 at 12, Newcastle-upon-Tyne, div.—*Robert Taylor*, Sunderland, Durham, draper, Dec. 10 at 11, Newcastle-upon-Tyne, fin. div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

William Savage, Wincheater, Berlin wool dealer, Dec. 8 at 1, London.—*Emanuel Passmore*, King-street, West Smithfield, licensed victualler, Dec. 10 at 11, London.—*Charles Hall*, Albemarle-street, Piccadilly, poulterer, Dec. 10 at 11, London.—*Frederick Winstone*, St. James-street, Islington, silver pencil-case maker, Dec. 9 at 1, London.—*Henry Robertson*, St. Michael's-alley, Cornhill, commission agent, Dec. 9 at 12, London.—*James Francis Hookham*, Eyre-street-hill, Leather-lane, Holborn, licensed victualler, Dec. 11 at 11, London.—*William Bracher*, *William Hawkins Bracher*, and *John Bracher*, Great Ormond-street, Bloomsbury, Middlesex, and Victoria-road, Plaistow, Essex, plumbers, Dec. 10 at half-past 12, London.—*Charles Thomas Moon*, Regent-street, Westminster, bookseller, Dec. 9 at 12, London.—*Robert Ashling*, Duxford, Cambridgeshire, brewer, Dec. 9 at half-past 11, London.—*Thomas Thompson Ponsonby*, Piccadilly, Middlesex, carver, Dec. 9 at half-past 12, London.—*Dixon Sharper*, West Hartlepool, Durham, ship chandler, Dec. 10 at 12, Newcastle-upon-Tyne.—*Thomas Mitchell*, Preston, Lancashire, coal dealer, Dec. 10 at 12, Manchester.

To be granted, unless an Appeal be duly entered.

William Gifford, St. Ives, Huntingdonshire, saddler.—*Charles Rust*, Surrey-place, Old Kent-road, cheesemonger.—*William Squires*, Oxford-street, gun maker.—*George Tilley*, Walton-on-Thames, Surrey, brewer.—*Thomas Bullock*, Liphook, Bramshott, Hampshire, grocer.—*Thomas Warington*, Mark-lane, City, corn merchant.—*Charles Copland* and *Wm. George Barnes*, Botolph-lane, City, and Southampton, provision merchants.—*Maurice Meyer* and *Segismund Seckel*, Newgate-street, City, general merchants.—*Benjamin Wilson*, Gresham-street. City, money scrivener.—*Stephen Rowley*, Cambridge, fellmonger.—*Edwin Etherington*, Godalming and Aldershott, Surrey, grocer.—*Mary Ann Apletree*, Stow-on-the-Wold, Gloucestershire, innkeeper.—*Thomas Marshall*, Hartlepool, Durham, shoemaker.—*Samuel Dalton*, *Daniel Dalton*, and *Alfred Dalton*, Chester, ironmasters.—*Thomas Wilson*, West Bromwich, Staffordshire, railway-carriage maker.—*John Wragg* the elder, Sheffield, Yorkshire, cutlery manufacturer.—*Samuel Mycroft*, Worksop, Nottinghamshire, butcher.—*Benjamin Moseley*, Norton, Derbyshire, scythe mannfacturer.—*Thomas Rodger*, Attercliffe-cum-Darnall, Yorkshire, grocer.—*Joseph Bowron Elgey*, Horton, Bradford, Yorkshire, commission agent.

SCOTCH SEQUESTRATIONS.

Martin Healey, Edinburgh, shoemaker.—*James M'Donald*, Glasgow, shoemaker.—*William Borland*, Edinburgh, house agent.—*Daniel M'Lean*, Springburn, near Glasgow, smith.—*John Baird*, Edinburgh, skinner.—*D. & J. M'Donald & Co.*, Glasgow, sewed muslin manufacturers.—*John P. Rodger*, Glasgow, commission agent.

The Right Hon. Sir Alexander Edmund Cockburn, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed Charles Mathew Clede, Gent., of Gray's-inn-square, to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, in and for the county of Middlesex, also in and for the city and liberties of Westminster.

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THE JURIST.

LONDON, NOVEMBER 28, 1857.

EVERY decision coming from a judge of such high reputation as Sir William Page Wood carries with it so much weight, and is so likely to be followed in practice without apprehension, that it is more important to call attention to anything coming from him that may appear questionable, than if it came from a quarter entitled to less respect. We are further emboldened to make some observations on the decision to which we are about to refer, by the fact, that in the case of *Lake* v. *Brutton* (2 Jur., N. S., part 1, p. 839) Sir J. L. Knight Bruce, L. J., during the course of the argument, made some observations clearly shewing that he was disposed to consider that decision erroneous, and Sir G. J. Turner, L. J., appeared to regard it as very questionable. It was not, however, necessary to determine the point, and it was not alluded to in the judgments.

The case above referred to (*Newton* v. *Chorlton*, 10 Hare, 646) raised this short point, whether a creditor whose debt was secured by the bond of the principal debtor and a surety, and who long after the execution of the bond took from the principal debtor an equitable mortgage by way of further security for the debt, had in any degree affected his rights against the surety by giving up the mortgage. The Vice-Chancellor held that he had not. The mortgage was not voluntarily given up with the intention of releasing it, but the benefit of it was lost by a careless parting with the title deeds. The principles, however, on which the judgment proceeded apply equally to the case of a voluntary release, and it does not appear that the circumstance of the loss having been occasioned by laches rather than by a wilful act, need for our present purpose be further adverted to.

The grounds upon which the learned judge proceeded were stated by him in a very elaborate judgment. He considered it settled that a surety is entitled to the benefit of all securities held by the creditor for the debt at the time the contract for suretyship is entered into, whether at the time he knew of their existence or not, and that the creditor cannot deal with them so as to deprive the surety of the benefit of them. He also considered that the cases established the right of a surety, on paying off the debt, to have an assignment of all securities then held by the creditor, including those subsequent to the suretyship; but that as regarded such subsequent securities, no case established that the surety had any right at all until he took some active step to get the benefit of them; while the case of *Wade* v. *Coope* (2 Sim. 155) was the other way. His Honor, therefore, held that the surety cannot complain if the creditor, at some time subsequent to the contract of suretyship, takes securities from the principal, and then gives them back, such a proceeding not altering the position of the surety under the original contract.

This decision was not appealed from, but we have been informed that the case was compromised. It is certainly unfortunate that a point of such interest was thus prevented from coming before a superior court.

It has been well observed by one of the Lords Justices, that it can seldom be right to consider the extent of a rule as being only that of the examples of it; though there must probably be surer and more dangerous error in stretching a rule beyond the reason for it. It must be admitted that none of the instances do carry the rule as to the rights of a surety beyond the extent to which it has been limited by the Vice-Chancellor; but the question remains, whether to carry the rule further would be stretching it beyond the reason for it, and whether, in fact, the reason does not require the giving to the rule a wider extent than he has allowed to it.

Now, on what reason is the admitted rule, that the surety is entitled to the benefit of the securities held by the creditor at the time of the suretyship being entered into, founded? Not on contract, but, as it has been repeatedly laid down, on natural equity; and the principle was thus enunciated by Sir G. J. Turner, L. J., when Vice-Chancellor, in *Yonge* v. *Reynell*, (9 Hare, 809):—"As between the principal and the surety, the principal is under an obligation to indemnify the surety, and it is, as I conceive, from this obligation that the right of the surety to the benefit of securities held by the creditor is derived. The principle is not, I think, much dissimilar to that which applies where a man directs part of his estate to be employed in carrying on a trade, in which case the creditors of the trade have a right to resort to that part of the estate, because the trustees have a right to be indemnified out of it." If this be the principle, it appears to apply to the case of a subsequent further security taken by the creditor from the principal debtor, as much as to securities existing when the suretyship was entered into. The principal is under an obligation to indemnify the surety; therefore the surety has a right to say, as between himself and the principal, that the securities given by the principal shall be first resorted to; and it is difficult to see what their dates have to do with the application of the principle.

Again: it is admitted by the Vice-Chancellor that the surety may at any time, if he chooses to take active proceedings, obtain the benefit of all subsequent securities then held by the creditor. It may be law, but it does not seem consistent with reason or convenience, to hold that the creditor may at any time, by his own voluntary act, without the surety's assent, take away this right. A mere omission to enforce the securities, even though they may thereby be lost, is quite another matter, it being admitted that a creditor is not bound to use diligence against the principal unless the surety calls upon him to do so.

The surety having thus, ex concessis, a right at any time to obtain the benefit of all securities held by the creditor, whether contemporaneous with the contract of suretyship or subsequent, on what is the distinction to be founded that the creditor, though he may defeat this right as to the subsequent securities, cannot do so as to the earlier ones? If the rule had been that the surety was only to have the benefit of those earlier securities of which he knew, then a satisfactory answer might have been given, for it would have been said, "The surety contracted his suretyship knowing that there were certain securities given by the principal to the creditor; he contracted with a view to those securities, and the creditor is not to be permitted to alter the state of things on the faith of which the surety contracted." It is settled, however, that the creditor cannot, without releasing the surety, give up securities which he held at the time of the contract, whether the surety knew of their existence or not; so that the distinction cannot turn on the point that the surety contracted with regard to them. In reply to this it has been urged, that the utmost good faith is supposed to exist between the contracting parties, and that the law therefore presumes that the surety is made acquainted with all the securities which the creditor then has. It seems to us that this is a technical way of arriving at a conclusion which is better arrived at by the application of a principle commending itself to the common sense of mankind; and such the principle laid down by Sir G. J. Turner, L. J., and referred to above, appears to be. The technical way does not seem to us to be satisfactory even as a technical way. Good faith, no doubt, requires that a person who is asked to become a surety should be informed of every circumstance that may tend to his injury; but we cannot see what moral obligation there is to inform him of all the circumstances which tend to render the suretyship less dangerous. If the rule only were, that in the absence of any evidence to the contrary it should be presumed that the surety was informed of the existence of the securities, and was to be treated as having entered into his contract on the faith of them, that would be founded on reason; for it is probable that he would be informed of them, as a motive to induce him to become surety. The rule, however, is not so confined; it is broadly laid down by Lord Eldon that it is immaterial whether the surety knows of them or not. We think the duty of the other parties to inform him of them can only arise from his having a lien upon them; and that his lien does not arise from its being the duty of the other parties to tell him of them, but from the natural right to have the liability discharged by the person and out of the property primarily liable.

We think that on reviewing all the cases so elaborately commented upon by the Vice-Chancellor, (except *Wade* v. *Coope*, which we shall presently consider), there is nothing to conflict with the view, that the true principle is, that the surety has, independently of contract, a right to be indemnified against the debt by the principal debtor; that he has, therefore, as between himself and the debtor, a right to throw the demand upon the securities for the debtor held by the creditor, at whatever time created; and that the creditor, though he is not bound to observe this order, nor bound to exert diligence to recover the demand from the principal or his property, yet is bound not to take any active step by which the right of the surety against the principal or his securities may be defeated. The rules on this subject are said to be founded on natural equity; and we say, without fear of contradiction, that it is against natural equity and against conscience that a creditor, who after the contract of suretyship obtains from the principal debtor a security sufficient to cover his demand, should voluntarily release this security and go against the surety. As between the surety and the principal, the securities given by the principal are the primary fund for the payment of the debt; and it seems to be contrary to those principles on which the ordinary doctrines as to marshalling assets are founded to hold that the creditor has a right, by active steps, to throw the ultimate burthen of the debt upon the person secondarily liable.

The case of *Wade* v. *Coope* (2 Sim. 155) appears to have been regarded by the Vice-Chancellor as an authority against the surety, which, in the absence of direct authority in the surety's favour, he was bound to follow. We think, however, if we may presume to dispute the Vice-Chancellor's opinion on such a point, that on examination that case can hardly be considered to be of any authority on the question. In the first place it must be observed, that the Vice-Chancellor of England states, in terms, that the bond in which the surety was bound was given in respect of one part of the debt, and the mortgage of which the surety claimed the benefit in respect of another part of it; and the judgment appears almost entirely to turn, and as the marginal note shews was understood by the reporter to turn, on the point, that the bond and mortgage were not securities for the same debt. How far this was a correct view of the facts may admit of doubt; but we think that every one reading the judgment will be of opinion that the leading idea in the Vice-Chancellor's mind was, that there was a want of sufficient identity between the debt secured by the bond and the debt secured by the mortgage, and that he laid comparatively little stress on the difference in point of date. If he intended (which we do not think he did) that his judgment should apply to the simple case of a subsequent security given for the debt for which the surety is liable, it appears to us to lay down a proposition which goes far beyond what Sir W. P. Wood, V. C., treated it as establishing—a proposition which, according to the view of the law taken by Sir W. P. Wood, V. C., himself, is opposed to the current of the decided cases, and which, therefore, is no authority for anything. The Vice-Chancellor of England first states the established doctrine to be, "that where a man becomes the surety for a debtor for the payment of a debt, he has, if he pays the debt, a right to avail himself of all the securities which the creditor has." Then, if we omit all that relates to the security being for a different sum, the substance of the rest of the judgment is, that this doctrine does not apply where the security is given subsequently to the contract of suretyship. Now, in *Wade* v. *Coope*, the question did not, as in *Newton* v. *Chorlton*, relate to the obligation of the creditor to preserve the security for the surety. The surety had paid what he was liable for, and had become transferee of the security. The proposition in *Wade* v. *Coope*, then, assuming that the Vice-Chancellor of England meant his observations to apply to the simple case above supposed, is, that the surety, paying off the debt, is not entitled to claim the benefit of such subsequent security, though in existence at the time when he pays the debt—a proposition which is in direct opposition to one of the rules stated by Sir W. P. Wood, V. C., (see 10 Hare, 656, 660), to be established by the cases.

We think, then, that *Wade* v. *Coope* cannot be treated as any authority on the question, and it is much to be regretted that so much weight was given to it, when, as it seems to us, principle would have led to an opposite conclusion, and one at which the other cases would not have prevented the Court from arriving.

THE EXETER HALL SERVICES.

The following is a copy of the letter addressed to the Bishop of London by the incumbent of St. Michael's, Strand:—

"My Lord Bishop,—I have already been in correspondence with your Lordship in reference to the proposed series of services on Sunday evenings in Exeter Hall, which, as your Lordship knows, is situated in my parish, to be conducted by several of the metropolitan clergy and others from various parts of the kingdom. The promoters of this movement having issued placards notifying to the public that these services will take place under your Lordship's sanction, commencing on Sunday next, but without any assent from me, as incumbent of the parish, I am forced into the painful position of either abandoning my duty as such incumbent, or of acting in apparent opposition and antagonism to you as my diocesan, by interposing my veto, which I am well advised will render the proposed meetings illegal. Nevertheless, however painful the position, no other alternative is left me but to notify to your Lordship, with all due respect, that I do not assent to any services being conducted within my parish except by myself or curate, or solely by your Lordship, as my diocesan.

"In thus protesting against public preaching within my parish by strange clergymen, and in an unconsecrated building, I am only upholding the parochial system which for many centuries has been maintained inviolable throughout England, and am setting my face against a proceeding altogether irregular, and which, if permitted, would prove thoroughly subversive of all discipline and order in the church, and would tend, beyond all conception, to destroy that form of sound words so essential to the purity and power of our branch of Christ's church.

"I am perfectly aware that the originators and promoters of the Exeter Hall Sunday services assert that the provisions of the act 18 & 19 Vict. c. 86, render my assent unnecessary. If so, why, may I ask, was it so urgently solicited last summer, and the fact of my consent announced in the advertisement? That I did then give my consent—my very reluctant consent, as is well known—I readily admit, but it was by way of experiment only, and that experiment so utterly failed that I now feel doubly called upon to interpose the veto which I possess.

"I am advised that beyond all question the above act of Parliament in no way dispenses with the necessity of my sanction being obtained. That act, as I am informed upon competent authority, merely renders inoperative the provisions of three previous statutes, one of which, as appears from the title, is only for Protestant Dissenters, and the two others (irrespective of the internal evidence to the like effect) have been judicially declared by Lord Hardwicke and by Sir John Nicholl (as judge of the Court of Arches) not to relate to the clergy of the Church of England. Upon this point I cannot do better than quote the words of the late Justice Bayley in the case of *Farnworth* v. *The Bishop of Chester*, (4 B. & Cr. 555). He says, (p. 570), 'If the vicar has the cure of souls co-extensive with the whole limits of his parish, that casts a very serious and important duty upon him, and he has a right, and is bound, as the conservator parochiæ, to take care that no person shall deliver doctrine in that parish except under his sanction and authority. It is said that the bishop will never appoint an unfit person; but if the vicar has the cure of souls in the parish he has a right to act on his own judgment, and is not bound to trust to the judgment of the ordinary.' I also take the liberty of mentioning the following cases, all of which have reference to points now brought forward:—*Rex* v. *The Bishop of London*, (1 T. R. 331); *Dr. Trebec* v. *Keith*, (2 Atk. 498); *Moysey* v. *Hilcoat*, (2 Hagg. 30); *Bliss* v. *Words*, (3 Hagg. 486); *Carr* v. *Marsh*, (2 Phillim. 198); and *Barnes* v. *Shore*, (8 Ad. & El. 640).

"Under these circumstances, I have felt it my duty (acting under the advice of counsel) to give notice to the Rev. T. H. Davies, whose name is announced as intending to preach in Exeter Hall on Sunday next, informing him of my objection to his so doing; and I most earnestly hope that your Lordship will, by the interposition of your authority, relieve me from the painful necessity of any further proceedings, which my exceedingly limited means will be little qualified to carry forward, however much I may deem my duty as incumbent of the parish to be paramount to all other considerations.

"In conclusion, I have but to add that I must beg to reserve to myself the right of making what use of this letter circumstances may require.

"I have the honour to be, with every feeling of profound respect, my Lord Bishop, your Lordship's ever most faithful and very dutiful servant,

"A. G. Edouart."

Henry H. Sayer, Bristol, corn factor. Dec. 17 at 11, Bristol, aud. ac.—*Christopher Fairlamb*, Newcastle-upon-Tyne, cheesemonger, Dec. 2 at 12, Newcastle-upon-Tyne, aud. ac.—*John H. Brown* the younger, Newcastle-upon-Tyne, commission merchant, Dec. 2 at half-past 12, Newcastle-upon-Tyne, aud. ac.—*Frederick Brown*, Tunstall, Staffordshire, tanner, Dec. 3 at half-past 11, Birmingham, aud. ac.—*C. Brown*, Birmingham, shoe dealer, Dec. 14 at 10, Birmingham, aud. ac.—*John Evans*, Kidderminster, cordwainer, Nov. 30 at 10, Birmingham, aud. ac.—*James Iliffe*, Birmingham, commission agent, Nov. 30 at 10, Birmingham, aud. ac.—*Wm. Thorpe*, Thorne, Yorkshire, scrivener, Dec. 15 at 11, Leeds, aud. ac. and div.—*A. Rule*, Leadenhall-street, City, insurance broker, Dec. 12 at 11, London, div.—*Theophilus Bethell*, Riley-street, Bermondsey, Surrey, licensed victualler, Dec. 14 at 12, London, div.—*Thomas Gutteridge*, Wilton, near Salisbury, Wiltshire, innkeeper, Dec. 14 at 12, London, div.—*Abraham Nash*, Everett-street, Brunswick square, Middlesex, builder, Dec. 14 at half-past 11, London, div.—*William Hucks Webster*, Chipping Ongar, Essex, corn merchant, Dec. 14 at 1, London, div.—*William Edwin Deacon*, Gosport, Hampshire, linendraper, Dec. 14 at half-past 12, London, div.—*David Cheetham*, Rochdale, Lancashire, cotton spinner, Dec. 1 at 12, Manchester, aud. ac.; Dec. 16 at 12, div.—*John Leach*, Newton Moor, near Hyde, Cheshire, shopkeeper, Dec. 7 at 12, Manchester, aud. ac.; Dec. 14 at 12, div.—*John Weston*, Mottram in Longdendale, Cheshire, manufacturing chemist, Dec. 2 at 12, Manchester, aud. ac.; Dec. 16 at 12, div.—*Henry Turberville Edwards*, Liverpool, builder, Dec. 10 at 11, Liverpool, div.—*Thomas Ridley*, Hartlepool, Durham, draper, Dec. 15 at 11, Newcastle-upon-Tyne, fin. div.—*Samuel Biggin*, *Henry Biggin*, and *Paul Smith*, Sheffield, saw manufacturers, Dec. 12 at 10, Sheffield, div.—*James Charles Cockerell*, Wandsworth-road, Surrey, dealer in horses, Dec. 2 at half-past 1, London, aud. ac.—*Edward Lane*, New Ferry, Cheshire, merchant, Dec. 11 at 11, Liverpool, aud. ac.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John Lownds, York-place, Vauxhall-bridge-road, Pimlico, watchmaker, Dec. 14 at 12, London.—*Joseph Harrison*, Epsom, Surrey, corn chandler, Dec. 11 at half-past 1, London.—*Thomas Roper*, Falcon-square, City, wholesale druggist, Dec. 11 at 2, London.—*John Linnit*, Berners-street, Oxford-street, manufacturing jeweller, Dec. 11 at 2, London.—*Isaiah Roberson*, Upper Sydenham, Kent, boot maker, Dec. 12 at 12, London.—*Thomas Olliver*, Prestbury, near Cheltenham, Gloucestershire, livery-stable keeper, Dec. 28 at 11, Bristol.—*William Smith*, Bath, hotel keeper, Dec. 29 at 11, Bristol.—*Arthur Jennings Kitchen*, Elland, Yorkshire, woollen manufacturer, Dec. 14 at 11, Leeds.—*William Conyer* and *Joseph Conyer*, Dewsbury, Yorkshire, shoddy dealers, Dec. 11 at 11, Leeds.—*Luke Priestley*, Bradford, Yorkshire, worsted manufacturer, Dec. 11 at 11, Leeds.—*Matth. Smith*, Sheffield, Yorkshire, steel manufacturer, Dec. 12 at 10, Sheffield.—*Joseph Mosedale*, Coventry, Warwickshire, engineer, Dec. 11 at half-past 10, Birmingham.

To be granted, unless an Appeal be duly entered.

Egbert Griffiths, Fenchurch-street, City, wine merchant.—*Castle Brangwin* the younger, Blackheath-road, Greenwich, and High-street, Deptford, grocer.—*Thomas Danson Pruday*, Rupert-street, Haymarket, tavern keeper.—*George William Neales*, New Oxford-street, upholsterer.—*David Arthur Singer*, Oxford-street, tailor.—*John Hill Govett*, Dennett-road, Peckham, Surrey, builder.—*Charles Henry White*, Southampton, chinaman.—*James Simmons*, Bridge-terrace, Harrow-road, Paddington, marble merchant.—*Henry Wm. Bond Smallpiece* and *Henry Wm. Smallpiece*, Guildford, Surrey, and Aldershot, Hampshire, curriers.—*Thomas Fred. Theed*, Winchester-street, Waterloo-town, Middlesex, surgeon.—*John Goolden Perrin*, *William Lionel Freestone*, and *Samuel Wm. Tuckey*, Great St. Helens, London, and Bristol, merchants.—*Charles Lewton*, Maesteg, Glamorganshire, publican.—*Owen Ellis*, Liverpool, stonemason.—*George Prevost Oxley*, Liverpool, merchant.—*Miles Lord* and *Geo. Rostron*, Newchurch, Lancashire, woollen manufacturers.—*James Siddons*, Sheffield, Yorkshire, grocer.—*William Oakes*, Sheffield, Yorkshire, edge-tool manufacturer.

PETITIONS ANNULLED.

Alfred Joseph Chittenden Cawthorn, Stock Exchange, City, and Warwick-terrace, Willow-walk, Bermondsey, Surrey, stock dealer.—*Solomon Cross*, West Bromwich, Staffordshire, factor.

PARTNERSHIP DISSOLVED.

William Weall and *Thomas Berkeley*, Temple-chambers, Fleet-street, solicitors and attornies.

TUESDAY, *Nov.* 24.

BANKRUPTS.

GEORGE PELLING, Holloway-place, Holloway-road, and Sidney-street, City-road, carpenter, Dec. 4 at 12, and Jan. 8 at 1, London: Off. Ass. Stansfeld; Sol. Chidley, 10, Basinghall-street.—Pet. f. Nov. 17.

JOSEPH WILLIAM SYER, South-street, Finsbury-market, cabinet manufacturer, Dec. 4 at 1, and Jan. 8 at half-past 12, London: Off. Ass. Graham; Sol. Reynolds, 67, Chancery-lane.—Pet. f. Nov. 20.

JOSEPH HEMINGWAY, Cleveland-street, Fitzroy-square, wool manufacturer, Dec. 5 and Jan. 12 at half-past 12, London: Off. Ass. Stansfeld; Sol. Roscoe, 14, King-street, Finsbury-square.—Pet. f. Nov. 10.

ARTHUR COLLS, Poplar, Middlesex, draper, Dec. 8 at 2, and Jan. 5 at 12, London: Off. Ass. Lee; Sols. Sole & Co., 68, Aldermanbury.—Pet. f. Nov. 12.

JOHANN HEINRICH THEODOR STOCKMARR and CHRISTIAN GOTTLIEB STENDEL, Basinghall-street, City, commission and general merchants, Dec. 4 at half-past 12, and Jan. 7 at 12, London: Off. Ass. Johnson; Sol. Elmslie, 10, Lombard-street.—Pet. f. Nov. 13.

WILLIAM TYLER, Bolt-court, Fleet-street, printer, Dec. 4 and Jan. 7 at 1, London: Off. Ass. Johnson; Sol. Clarke, 29, Bedford-row.—Pet. f. Nov. 21.

ROWLAND PRICE, Stourbridge, Worcestershire, scrivener, Dec. 7 and Jan. 11 at 11, Birmingham: Off. Ass. Whitmore; Sols. Saunders & Son, Kidderminster; Grazebrook, Stourbridge; James & Knight, Birmingham.—Pet. d. Nov. 2.

JOHN HENRY SWIFT, Huddersfield, Yorkshire, draper, Dec. 10 and Jan. 21 at 11, Leeds: Off. Ass. Young; Sols. Clough, Huddersfield; Bond & Barwick, Leeds.—Pet. d. and f. Nov. 23.

DANIEL BEST PARRY, Liverpool, whitesmith, Dec. 3 and Jan. 7 at 11, Liverpool: Off. Ass. Turner; Sol. Banner, Liverpool.—Pet. f. Nov. 17.

JOHN OTTO WILLIAM FABERT, Liverpool, ship-chandler, Dec. 9 and 29 at 11, Liverpool: Off. Ass. Cazenove; Sols. Evans & Son, Liverpool.—Pet. f. Nov. 20.

RALPH HARDIE THOMSON, Liverpool, commission agent, Dec. 2 and 29 at 12, Liverpool: Off. Ass. Cazenove; Sol Yates, Liverpool.—Pet. f. Nov. 11.

JAMES STEEL, Liverpool, trader, Dec. 4 at 12, and Jan. 4 at 11, Liverpool: Off. Ass. Bird; Sols. Lowndes & Co., Liverpool.—Pet. f. Sept. 4.

THOMAS GILSON, Manchester, shirt front and collar manufacturer, Dec. 4 and 30 at 12, Manchester: Off. Ass. Hernaman; Sols. Sale & Co., Manchester.—Pet. f. Nov. 20.

RICHARD BRIDGE, Chatterton, Water, and Dunoakshaw, Lancashire, cotton spinner, Dec. 8 and 30 at 12, Manchester: Off. Ass. Hernaman; Sol. Rowley, Manchester.—Pet. f. Nov. 20.

THOMAS JAMES WILKINSON, Hulme, Manchester, surgeon, Dec. 4 and Jan. 14 at 11, Manchester: Off. Ass. Hernaman; Sol. Taylor, Manchester.—Pet. f. Nov. 21.

MEETINGS.

Thomas Francis, Lamb-place, Kingsland-road, builder, Dec. 5 at 12, London, last ex.—*James Scruby*, Bishop's Stortford, Hertfordshire, grocer, Dec. 8 at 12, London, last ex.—*Samuel Vandersluis*, Lower Marsh and Westminster-road, Lambeth, Surrey, tailor, Dec. 15 at 11, London, last ex.—*M. Moss*, Borough-market, Borough, Surrey, fruiterer, Dec. 8 at 1, London, aud. ac.—*Thomas Gutteridge*, Wilton, near Salisbury, Wiltshire, innkeeper, Dec. 5 at half-past 12, London, aud. ac.—*Edward Small*, Canterbury, Kent, plumber, Dec. 5 at 1, London, aud. ac.—*S. P. Diprose*, St. Leonards-on-Sea, Sussex, grocer, Dec. 5 at half-past 12, London, aud. ac.—*John D. Gotch* and *Thomas H. Gotch*, Kettering and Rowell, Northamptonshire, and Long-acre, Middlesex, bankers, Dec. 9 at 12, London, aud. ac.; Dec. 16 at 1, div.—*Abraham Nash*, Everett-street, Brunswick-square, builder, Dec. 4 at half-past 11, London, aud. ac.—*Wm. E. Deacon*, Gosport, Hampshire, linendraper, Dec. 4 at 11, London, aud. ac.—*James Saunders*, Thurlton, Norfolk, miller, Dec. 4 at half-past 12, London, aud. ac.—*Wm. H. Webster*, Chipping Ongar, Essex, corn merchant, Dec. 4 at 11, London, aud. ac. —*Wm. Tyler*, Penton-place, Walworth, Surrey, and Cringleford, Norfolk, dealer in foreign animals, Dec. 4 at 12, London, and. ac.—*Thomas Gratwick*, Camberwell-green, and High-street, Southwark, Surrey, cheesemonger, Dec. 4 at 1, London, and. ac.—*John H. Wyld*, Bristol, wine merchant, Dec. 17 at 11, Bristol, aud. ac.; Jan. 7 at 11, div.—*John Doherty*, Liverpool, corn merchant, Dec. 17 at 11, Liverpool, aud. ac. —*Robert Taylor*, Sunderland, Durham, draper, Dec. 8 at 11, Newcastle-upon-Tyne, aud. ac.—*James Cowan*, Newcastle-upon-Tyne, cheesemonger, Dec. 8 at 12, Newcastle-upon-Tyne, aud. ac.—*Dixon Sharper*, West Hartlepool, Durham, ship chandler, Dec. 8 at 12, Newcastle-upon-Tyne, aud. ac.—*Thomas N. Ashman*, Yeovil, Somersetshire, currier, Dec. 9 at 11, Exeter, aud. ac.; Dec. 17 at 11, div.—*Thomas Hichens*, St. Thomas the Apostle, Devonshire, merchant, Dec. 9 at 11, Exeter, aud. ac.; Dec. 17 at 11, div.—*James E. Prockter*, St. Columb Minor, Cornwall, shipowner, Dec. 9 at 11, Exeter, and. ac.; Dec. 17 at 11, div.—*George Milnes Hirst*, *George Hirst*, and *Wm. F. Wilman*, Batley, Yorkshire, manufacturers, Dec. 15 at 11, Leeds, aud. ac. and div. sep. est. of *George Milnes Hirst*.—*Edwin Waterhouse*, Dewsbury, Yorkshire, carpet manufacturer, Dec. 7 at 11, Leeds, aud. ac.; Dec. 15 at 11, div.—*Thomas W. Potter*, York, corn merchant, Dec. 7 at 11, Leeds, aud. ac.; Dec. 15 at 11, div. —*Samuel Biggin*, *Henry Biggin*, and *Paul Smith*, Sheffield, saw manufacturers, Dec. 5 at 10, Sheffield, aud. ac.—*William H. Dickenson*, Sheffield, table-knife manufacturer, Dec. 5 at 10, Sheffield, aud. ac.—*John Deakin*, Sheffield, joiner, Dec. 5 at 10, Sheffield, aud. ac.—*Henry Liversedge*, Eckington, Derbyshire, surgeon, Dec. 5 at 10, Sheffield, aud. ac.—*G. Clayton* and *G. Crookes*, Sheffield, grocers, Dec. 5 at 10, Sheffield, aud. ac.—*J. Morrall*, Upper Russell-street, Bermondsey, Surrey, leather dresser, Dec. 16 at half-past 12, London, div.—*Matthew James Popplewell*, Clement's-lane, and *Robert Goff*, New London-street, City, merchants, Dec. 15 at 11, London, div.—*T. Bruce Cooper*, York-place, Old Kent-road, Surrey, builder, Dec. 16 at 2, London, div.—*Wm. Finch*, Bartholomew-lane, City, Dec. 15 at 11, London, div.—*Robt. Jackson*, Lombard-street, City, shipowner, Dec. 18 at 11, London, fin. div.—*Richard Smith*, Salehurst, near Hurst Green, and Sedlescomb, near Battle, Sussex, butcher, Dec. 18 at 2, London, div.—*Elizabeth Hill*, Little Moorfields, City, coachbuilder, Dec. 16 at half-past 11, London, div.—*Tilden Smith*, *James Hilder*, *Geo. Scrivens*, and *Francis Smith*, Hastings, Sussex, bankers, Dec. 17 at 12, London, fin. div. sep. est. of *George Scrivens*.—*Jas. Bentley*, Warrington, Lancashire, ironmonger, Dec. 8 at 12, Manchester, aud. ac.; Dec. 15 at 12, div.—*John Lowe*, Manchester, merchant, Dec. 10 at 12, Manchester, aud. ac.; Dec. 17 at 12, div.—*Edward Crowther*, Manchester, merchant, Dec. 10 at 11, Manchester, aud. ac.; Dec. 17 at 11, div.—*Matthew Townsend*, Leicester, manufacturer of hosiery, Dec. 15 at 10, Nottingham, aud. ac. and div.—*John Bridges* and *Charles John Carr*, Belper, Derbyshire, millwrights, Dec. 15 at half-past 10, Nottingham, aud. ac. and div. sep. est. of *John Bridges*.—*George Taylor*, Derby, silk manufacturer, Dec. 15 at half-past 10, Nottingham, div.—*Alice Dean* and *Adam Dean*, Bolton, Lancashire, millwrights, Dec. 17 at 12, Manchester, div.—*James Richard Grimshaw*, Pemberton, Lancashire, coal miner, Dec. 17 at 11, Liverpool, div.—*Isaac Kirkbride* and *John Kirkbride*, Carlisle, stonemasons, Dec. 16 at 11, Newcastle-upon-Tyne, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

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THE State Trials, taken in the mass, are of no authority whatever. We should, indeed, be very glad to hear of any one who would conduct a critical inquiry into the origin of the several reports which constitute these trials, who would ascertain for us the names of the writers, the circumstances under which they were written, the present resting-places of the original MSS., (where these are known to exist), and who would give us an account of such other reports of the events described as remain either in MS. or in print, in public or private depositories. Some of these are in the British Museum—some in the State Paper Office. Lambeth may throw light on a few cases—the Bodleian on many. Private collections would also help. We recommend this investigation to the learned correspondents of Notes and Queries. What is now popularly known of the State Trials is not in favour of their credit. Some of them—for example, the reports of the trials of Essex, of Raleigh, of the Gunpowder Conspirators—are mere Ministerial versions of these transactions, cooked and arranged to deceive the public. Others again—to name only the trial of Bushel, in the famous jury case—are the laborious and one-sided defence of the parties charged. A barrister's speech for his client might be cited in evidence with as much justice as any of these. The same must be said of the trials of the Earl and Countess of Somerset. When an Amos or a Jardine opens a page of the State Trials, it is to shew that the facts are falsely stated. Until the State Trials are subjected to critical inquiry, individually or collectively, they will remain of slight value to the historian, and the facts they assert can never be received without due corroboration.—*Athenæum*, (Nov. 14), No. 1568, p. 1417.

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JOSEPH YEOWARD, Liverpool, ship broker, Dec. 11 and Jan. 1 at 11, Liverpool: Off. Ass. Bird; Sols. Rogerson & Peacock, Liverpool.—Pet. f. Nov. 23.

Meetings.

George Henry Stanley, Cannon-street-road, St. George's-in-the-East, builder, Dec. 10 at 11, London, pr. d.—*William Edward Hunt*, Strand, licensed victualler, Dec. 9 at half-past 12, London, aud. ac.—*Thomas Roper*, Falcon-square, City, wholesale druggist, Dec. 11 at 12, London, aud. ac.; Dec. 21 at 1, div.—*William Bracher*, *William Hawkins Bracher*, and *John Bracher*, Great Ormond-street, Bloomsbury, Middlesex, and Victoria-road, Plaistow, Essex, plumbers, Dec. 10 at half-past 12, London, aud. ac.—*Benjamin Baker*, Cardiff, Glamorganshire, apothecary, Dec. 17 at 11, Bristol, aud. ac.—*Evan Davies*, Swansea, Glamorganshire, linendraper, Dec. 17 at 11, Bristol, aud. ac.; Jan. 7 at 11, div.—*Robert Sutton* and *William Haywood*, Liverpool, booksellers, Dec. 8 at 11, Liverpool, aud. ac.—*William Shirtcliff*, Loughborough and Quorndon, Leicestershire, manufacturer of hosiery, Dec. 8 at half-past 10, Birmingham, aud. ac.—*John Baxter Folkard*, Jermyn-street, Westminster, tailor, Dec. 21 at half-past 11, London, div.—*Geo. Fossey* and *James Steel*, Norway Wharf, Millwall, Middlesex, timber merchants, Dec. 21 at half-past 2, London, div.—*Buchanan Balfour*, Pinner's-hall-court, Broad-street, City, underwriter, Dec. 18 at 12, London, fin. div.—*Patrick Cruickshank*, *John Melville*, and *William Fauntleroy Street*, Austin-friars, City, merchants, Dec. 18 at 12, London, div. sep. est. of *John Melville*.—*William Edward Hawkey*, Sykes-terrace, Mile-end-road, tailor, Dec. 18 at 11, London, div.—*Edward Hodges Baily*, Newman-street, Oxford-street, and Crescent, Camden-road-villas, Middlesex, sculptor, Dec. 21 at half-past 1, London, div.—*Asher Prior* and *William Prior*, Tunbridge-place, New-road, ironmongers, Dec. 18 at 11, London, div.—*Richard Burge*, Manchester, bookseller, Dec. 14 at 12, Manchester, aud. ac.; Dec. 23 at 12, div.—*William Threlfall*, Preston, Lancashire, iron merchant, Dec. 15 at 12, Manchester, aud. ac.; Dec. 22 at 12, div.—*Thomas Burbidge Marston*, Leicester, dyer, Dec. 18 at half-past 10, Nottingham, aud. ac. and div.—*William Edwards*, Stamford, Lincolnshire, common brewer, Dec. 18 at half-past 10, Nottingham, aud. ac. and div.—*Charles Jones*, Gloucester, sail maker, Jan. 14 at 11, Bristol, div.—*Henry Mertens* and *John Sutcliffe*, Apperley Bridge, Yorkshire, dyers, Dec. 18 at 11, Leeds, div.—*Thomas Watson Nicholson*, Rookery, Salterhebble, near Halifax, Yorkshire, oil merchant, Dec. 18 at 11, Leeds, div.—*Uriah Wimpenny*, Holme Bridge, Almondbury, Yorkshire, woollen-cloth manufacturer, Dec. 18 at 11, Leeds, div.—*Matthew Sheard Beaumont*, Huddersfield, Yorkshire, corn dealer, Dec. 18 at 11, Leeds div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Wm. Chappin, Tring, Hertfordshire, straw-hat manufacturer, Dec. 19 at 11, London.—*Charles Dorrett*, Serle-street, Lincoln's-inn, dealer in wines, Dec. 19 at half-past 11, London.—*Caleb Pizzie*, Saffron Walden, Essex, and Windsor-terrace, City-road, Middlesex, carpet manufacturer, Dec. 19 at half-past 11, London.—*Charles Walker* and *Frederick J. Walker*, Commercial-road East, drapers, Dec. 18 at 2, London.—*Joseph Halford*, Cheltenham, ironmonger, Dec. 29 at 11, Bristol.

To be granted, unless an Appeal be duly entered.

John Bean, New London-street, London, and Albert-terrace, Albert-road, Sydenham-park, Kent, coal merchant.—*John Farr*, Bristol, ironmonger.—*Nathaniel R. Hammett*, Cardiff, Glamorganshire, grocer.—*David Davies*, Llandilofawr, Carmarthenshire, grocer.—*Robert Simpson*, Sedgefield, Durham, draper.—*Richard Burge*, Manchester, bookseller.—*William Keighley*, *Sugden Keighley*, and *Joseph Keighley*, Keighley, Yorkshire, worsted manufacturers.—*William Newsome* and *Edward W. Hammond*, Batley, Yorkshire, scribbling millers.—*John Hamilton* and *Robert Hamilton*, Halifax, Yorkshire, wire workers.—*Joseph B. Spencer*, Halifax, Yorkshire, joiner.—*Wm. Mee*, Leicester, manufacturer of fancy hosiery.

Petition Annulled.

Wm. Orford, Great Yarmouth, Norfolk, grocer.

Scotch Sequestrations.

James French, Maybank, Pennicuik, cattle dealer.—*Andrew B. Whyte*, Glasgow, sheriff's officer.—*John M'Murtrie*, Port-Glasgow, shipowner.—*G. Thomson*, Srathmiglo, Fifeshire, manufacturer.—*Henry Schultz*, Greenock and Port-Glasgow, merchant.—*Hugh Speirs*, Largs, commission agent.—*Davis M'Clue*, Glasgow, grocer.—*M'Allan Brothers*, Glasgow, and Dillichip, Dumbartonshire, calico printers.—*James Orr*, Glasgow, grocer.—*James Barr*, Glasgow, cap manufacturer.—*Mackenzie, Ramsay, & Co.*, Dundee, merchants.—*Raeside &*

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THE JURIST.

LONDON, DECEMBER 5, 1857.

A rebuke from so eminent and excellent a judge as Mr. Justice Erle cannot fall unheeded, or be allowed to pass without respectful consideration on the part of the legal Profession. There is no judge on the Bench more distinguished for his courtesy and kindness to the Bar; there is not one who commands more deservedly, not only the esteem, but the admiration of its members. It is therefore we feel that his Lordship's censure upon the misuse of a counsel's privilege in the examination of witnesses comes with peculiar force, and presents claims of no ordinary character upon our attention. Without reference to the special occasion which called forth the rebuke—and with the circumstances of which we are not sufficiently acquainted to offer any opinion—it cannot be denied that in many instances the liberty of counsel degenerates into license; that it is used, not for the furtherance of justice, but for the wounding of sensitive feelings, the unnecessary exposure of faults or misfortunes, the raking up of sorrowful events in a man's life long since repented of, long since atoned for, long since forgotten by all but the harbourers of ill concerning others, who are ever ready to reproduce it when it is capable of inflicting the greatest injury. But while we make this admission to its full extent, and lament the necessity for making it, we must still assert, notwithstanding the prevalent notions to the contrary, that the privileges of counsel are comparatively but seldom abused, and that they are in general exercised, within proper limits, by educated and honourable gentlemen. These privileges, moreover, are the privileges of the public, intended for their benefit, and not for the pleasure or profit of the advocate; unnecessarily, therefore, to interfere with them would be to the injury of the public, and not to the detriment of the Bar. It must also be borne in mind that the barrister has no easy duty to perform in the extrication of truth from the circumstances cast around it by interest, by malice, by human passion, and in the exposure and defeat of falsehood, with its plausible cunning and its barefaced effrontery. This duty, arduous and painful enough, he is often called upon to fulfil on hasty instructions, or, it may be, on suggestions made at the moment when the witness appears in the box.

Several of our journalists who write so freely upon the "license of counsel," which has become a sort of cant term, would do well to remember these difficulties which beset the advocate, and at the same time to give a better example by restraining their own license in offering reckless and unjust comments upon the judges of the land, as well as upon the Bar, and, above all, in prejudging and condemning those who are accused of crime before they have had an opportunity of being heard in their defence.

With regard to derogatory questions which may be properly put to witnesses by counsel, we apprehend that in the majority of cases there can be little difficulty in adopting the right course. The first consideration for the advocate will be, is this question relevant—that is, does it affect the credit of the witness? If not, certainly refuse to ask it. It is difficult, for instance, to see how a question whether the witness is in difficulties can discredit him, even if it produce an answer in the affirmative. He may be in hopeless embarrassment, and yet speak the truth to its fullest extent. So, to ask a man whether he has been charged with an offence, unless he has also been convicted of it, is not only irrelevant, but most unjust, for the best men are liable to be wrongfully accused; but if acquitted by the only competent tribunal appointed to decide upon their innocence or guilt, the accusation should never again be mentioned save in terms of commiseration. The second consideration should be, supposing the suggestion to be relevant, is it true? For the purpose of satisfying himself upon this point, the advocate should carefully probe the means of knowledge possessed by him who suggests the question. Let him cross-examine the attorney upon the subject as closely as he cross-examines adverse witnesses, and only in the event of conviction being brought home to his own mind, that there is foundation beyond all reasonable doubt for the charge, let him put and press the question.

With these limitations this privilege must and may safely be left where it is, in the hands of the Bar, for the benefit of the public and the due administration of justice.

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It has often been found a matter of difficulty in practice to determine whether proceedings might be taken to enforce an award before the time which is allowed for setting it aside had elapsed. Before the Common-law Procedure Acts, and the Rules of Practice made under them, a distinction was supposed to exist between cases in which a verdict had been taken subject to a reference, and in which no verdict had been taken, or the cause and matters in difference had been referred; (see *Hare* v. *Fleay*, 2 Lownd., M., & P. 392; *Jones* v. *Ives*, 10 C. B. 429; *Hobdell* v. *Miller*, 2 Scott's N. R. 163); but by Reg. Gen., Hil. T., 1853, r. 170, "costs may be taxed on an award notwithstanding the time for setting aside the award has not elapsed." This was, at all events, permitting a step to be taken towards the enforcement of the award during the period for setting it aside, but still it was not clear that you could go beyond the taxation of costs in all cases until that period had expired. The case, however, of *O'Toole* v. *Pott* (7 El. & Bl. 102; 3 Jur., N. S., part 1, p. 261) puts the question beyond all doubt, and lays down one uniform rule in all cases of awards, viz. that if a verdict has been taken subject to a reference, the award may be enforced at the expiration of fourteen days after the publication of the award; (see the Common-law Procedure Act, 1852, s. 120); but if no verdict has been taken, then the award may be enforced at any time after publication. In the above case a verdict had been taken in vacation, subject to the award of an arbitrator, to whom the cause and all matters in difference were referred. The award having been made before the next term, the plaintiff, in whose favour it was made, signed judgment at the end of fourteen days, and was held justified in so doing. Lord Campbell, C. J., in delivering the judgment of the Court, said, "No reason has been suggested why a creditor, who has established his right, should be thus delayed in enforcing it. The limitation of time for moving to set aside an award was intended to aid the successful party, and make his title secure after that time, but was not intended to give insecurity in favour of a debtor who had been adjudged to be liable. The award is to be taken to be valid until a competent tribunal has questioned its validity, and stayed proceedings upon it. In respect to verdicts subject to a reference, they are not considered verdicts till the award has been made."

THE BISHOP OF EXETER UPON THE NEW DIVORCE ACT.

The Bishop of Exeter has written and published a long letter to the Archdeacon of Barnstable, and the clergy of that archdeaconry, in answer to an address requiring the bishop's advice on a subject which greatly "disquiets and distresses them—namely, the 58th clause of the Divorce and Matrimonial Act, by which any clergyman entitled to officiate within any diocese is authorised to intrude into any other parish of the same diocese for the purpose of performing the marriage service between parties 'whose former marriage has been dissolved on the ground of his or her adultery,' whenever the minister of the parish shall have refused to perform the said service."

The bishop expresses his sympathy with the clergy on this occasion, but is of opinion that little, if any, practical evil can flow from the clause in question, inasmuch as he does not suppose that any clergyman of the Established Church will perform the ceremony of marriage for a divorced woman—at all events, in the church of a clergyman who has refused to perform it. He is, however, of opinion that the clause is highly objectionable in point of principle, as violating the parochial system, and believes that it was inconsiderately framed and adopted.

"That the 58th clause," he says, "was hastily and without due consideration introduced and passed would appear from internal evidence, even if we were ignorant of the history of the proceeding—from the absence, I mean, of any of those provisions which must have accompanied it if it had been intended to produce the mischief which you with too much reason deprecate; for in that case any clergyman whatever would have been permitted to perform the marriage service, instead of 'any minister entitled to officiate within the diocese;' in other words, any incumbent, or licensed curate, or assistant to any incumbent, for no other is 'entitled to officiate,' even if he could in any case officiate, without subjecting himself to ecclesiastical censures. This alone is no light security. In truth, I know not, and should be very sorry to know, any single incumbent or curate of my diocese whom I could lightly suspect of being either so unmindful of what he owes to his brethren, or so heedless of his own character, as voluntarily to incur the odium which would most justly attach to a clergyman intruding into the church of another for the purpose of performing a service which the proper minister deems unfit to be performed in it.

"In particular, with reference to our present subject, no one having the slightest sense of decency or self-respect could hire himself out for the express purpose of calling on 'God the Father, God the Son, and God the Holy Ghost' to bless an union founded on the notorious violation of the marriage vow by one at least of the parties, most commonly with the partner of her guilt—an union which thus would be little better than one continued life-long adultery—an union which implies an utter abnegation of repentance for past sin, on the woman's part at least—a flinging to the winds of that 'spiritual benediction and grace' which was before invoked for her, that she and her former partner might 'so live together in this life that in the world to come they might have life everlasting.'"

The bishop feels it his duty to do all in his power to co-operate with others in marking their common reprobation of the principle involved in the clause; hopes to confine such marriages to the registrar's office; and, indeed, inclines to the opinion that they cannot be lawfully celebrated in church.

"I therefore here announce to you that no such marriage will in this diocese, during my episcopate, be performed by license. A marriage license is not an instrument which can be claimed as of right. It issues in the name of the bishop, who thereby declares himself 'willing, that the desires of the applicants may the more speedily obtain due effect without the publication of banns.'

"Now, as I cannot truly say that I am thus 'willing,' I cannot consent to the issuing of a license in such a case in my name; and I rejoice to know that my vicar-general, to whom the power of granting licenses is intrusted by his patent, agrees with me as to the fitness of withholding them in the case of any person divorced for his or her adultery.

"This will probably have the wholesome effect of confining these marriages to the registrar's office, for it can hardly be imagined that any woman who retains the slightly particle of womanly modesty will choose to have her shame proclaimed again and again in the house of God at the time of public worship and in the hearing of all the people, who are thereby invited to declare whether they 'know any cause or just impediment' why she and her paramour 'should not be joined together in holy matrimony.' This very phrase, 'holy matrimony,' suggests another grave consideration. Is the marriage of a divorced woman forbidden by God's law? I do not say that it is; but neither do I venture to say, in the face of great authority to the contrary, that it is not. But if it is, the recent statute, which makes such marriage lawful in spite of God's law, does not make lawful the solemnisation of it in the house of God; for the Act of Uniformity not being repealed, the new act must be so construed as shall make it consistent, where it is possible, with the former; but the former, speaking in the rubric, says, that 'if at the day of marriage any man do allege the impediment of its being contrary to God's law, and put in a caution, (to the full value of the charges), then the solemnisation must be deferred until such time as the truth be tried.' How this trial is to be had, in what court, and by what process, it is for lawyers to say. It is enough for me to cite the words of the law itself.

"But neither is this all. I apprehend that if to marry a divorced woman is 'forbidden by God's word,' such marriage solemnised in church is unlawful, and being unlawful is also absolutely void. But that it is unlawful the Prayer-book, which is part of the Act of Uniformity, expressly declares, for it requires the minister to say unto the person that shall be married, 'Be ye well assured that so many as are coupled together otherwise than God's word doth allow are not joined together by God; neither is their matrimony lawful.' When, therefore, the 57th section of the new act says that when any marriage shall have been declared by the Court for Divorce and Matrimonial Causes to be dissolved, 'it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been dissolved by death,' this must be made consistent with the Act of Uniformity, and can only be so made by the new marriage being contracted as a civil contract, with all the civil effects of marriage, before the registrar, without any religious ceremony.

"Nor is this contrary to anything in the 58th section, which requires 'any minister of any church who shall refuse to perform the marriage service to permit any other minister,' within the description there given, 'to perform such service.' For this permission is to be given only in the case of 'any persons who but for such refusal would be entitled to have the same service performed in such church or chapel;' and certainly no persons can be entitled thereto if the marriage be 'forbidden by the word of God.'

"It follows, therefore, that if the position which has been maintained by many very learned divines of very high character, with no mean show of argument—a position, too, which is in strict accordance with what is still the canon law in England, and was the temporal law from time immemorial till within these three months, namely, that to marry a divorced woman is 'forbidden by the word of God'—it follows, I say, that if this position be true, (and the onus of proving it to be untrue seems to rest with those who deny what the church's law has always hitherto received), the only certain way in which such a marriage can legally be contracted at all is by the parties contenting themselves with marrying before the registrar."

COMMON LAW RULE.

Appeals to Superior Courts of Common Law under the 20 & 21 Vict. c. 43.

REGULA GENERALIS.—*Michaelmas Term,* 1857.

1. It is ordered, that in cases of appeal to a superior Court under the provisions of the stat. 20 & 21 Vict. c. 43, the 15th and 16th Practice Rules of Hilary Term, 1853, so far as the same are applicable, shall be observed.

2. And in cases when the appeal is to be heard before a judge at chambers, the appellant shall obtain an appointment for such hearing, and shall forthwith give notice thereof to the respondent, and shall, four clear days before the day appointed for the hearing, deliver at the judge's chambers a copy of the appeal.

The statute with reference to which the above rule is framed gives an appeal on points of law from the decision of justices upon any information or complaint made before them. The 15th and 16th Practice Rules of Hilary Term, 1853, are to the effect, that appeals may be set down for argument in the special paper, at the request of either party, four clear days before the day of argument, notice thereof being given forthwith to the opposite party, and the appeal cases, with points for argument, being delivered to the judges.

REGISTRATION OF TITLES TO LAND.

Communication from the Council of the Incorporated Law Society of the United Kingdom on the Subject of the Report from the Commission for considering the Subject of the Registration of Titles to Land.

AT the close of last session a Report from the Commission for considering the subject of the Registration of Titles to Land was laid on the tables of both Houses of Parliament. It contains various important recommendations, with the view to introduce an entire and uniform system of registration of titles throughout England and Wales, and it also contains various recommendations or suggestions for alterations in the law of real property, preparatory to the introduction of an uniform system of registration.

The Report was accompanied by the draft of a bill prepared by one of the commissioners, which, though in some respects differing from the recommendations made in the Report, agrees with them altogether in principle. The Report was also accompanied by an Appendix, containing the suggestions, opinions, and evidence of numerous members of various branches of the Profession on the subject of the inquiry.

As it is not unlikely that at an early date bills will be brought into Parliament to carry into effect the recommendations of the Report, and as the subject is one in which the whole body of solicitors are much interested and entitled to be heard, and at the same time one on which they can furnish useful information and opinions, the Council consider it desirable that the main features of the Report, and of the recommendations contained in it, should be before the whole Profession at an early stage of the matter, in order that they may have an opportunity of considering the subject fully, and of expressing their opinions on it before the new system shall be authoritatively introduced.

With this feeling the Council beg to draw the attention of the solicitors throughout the country to the contents of the Report, and the evidence and papers accompanying it, and to invite opinions and communications on the subject of it.

The following statement contains the principal recommendations contained in the Report, to which they ask particular and early attention.

In order to facilitate reference to the Report itself the Council have distinguished the extracts they have made, by numbers, referring to the several sections in the Report from which the extracts are made.

PRELIMINARY OBSERVATIONS.

XLVII. *As to whether Registration should be voluntary or compulsory.*

1. The commissioners do not recommend that all persons, owners or possessors of land, should be compelled to register within a limited period.
2. They do not recommend that persons should be compelled to prove title, or submit it to investigation before registration.
3. They do not recommend that dealings with land unregistered should have no effect.
4. They recommend that registration shall not (at least at first) be necessary to a transfer of the fee, in order to give it preference over a subsequent transfer brought to the registry for completion.
5. They recommend that as to land once put on the register, it should be compulsory that the subsequent dealings be always continued in the register.

XLVIII. *As to Parliamentary Title.*

The commissioners do not consider it necessary to registration that it should confer parliamentary title, but think that registration should be allowed in the first instance on ostensible or possessory ownership, leaving the antecedent title for investigation, until by lapse of time it should become unnecessary.

XLIX. *As to pre-existing Interests.*

The commissioners recommend that interests created before the commencement of registration should not be barred by mere registration, but should be allowed to be claimed notwithstanding the registration.

L. *Protection of beneficial Interests compatible with Registration of Legal Ownership.*

The commissioners think the system of registering legal ownership will not be thought objectionable by landowners, and that beneficial interests will be sufficiently protected.

LI. *Whether Metropolitan or Provincial Register.*

The commissioners recommend that the principal office be in London, but that local or district registries be established.

LEADING PARTICULARS OF THE PLAN RECOMMENDED BY THE COMMISSIONERS.

LII. Land Register or Transfer Office for England and Wales to be established in London, and branch offices in different districts, under the authority of the registrar-general.

LIII. Registration to extend to all corporeal hereditaments, except copyholds; and to advowsons and rent-charges, except tithe rent-charges.

LIV. All owners in fee may apply for the registration of the ownership, so that such ownership shall thenceforth be manifested by the register alone.

LV. Registration to be twofold—

1. Enabling registered owner to transfer estate, with immediate statutory title.
2. Registration of actual ownership, without power to transfer an immediate statutory title.

LVI. In case of registration not giving a statutory title, the party applying must produce—

1. A declaration of ownership, and where it can be done, the last instrument of conveyance; or,
2. A decree or judgment, and also such declaration.

LVII. Registration giving immediate statutory title to be allowed on investigation of title by the registrar, and on payment of a small premium or per-centage on estimated value of property. After that, the Consolidated Fund to be liable to make fair compensation to any party establishing a claim on the estate of which the title is thus warranted.

LVIII. A certificate of registry to be given to the party applying—

Either of warranted ownership, or unwarranted ownership.

LIX. The registered ownership will, for the purposes of transfer, represent the fee-simple, and will not be divisible into partial or limited estates or interests, except so far as charges and leases may be admitted to benefits of registration.

LX. Right of disposition in fee, and to charge and lease, to be incident to registered ownership.

LXI. Registered ownership not warranted will be subject to previously existing rights and interests, but not to any rights subsequent to the first registration; except charges and leases admitted to register, and interests protected by caveat.

LXII. Warranted registered ownership to be subject only to the registered rights.

LXIII. What rights registered ownership, whether warranted or not warranted, will be subject to. The register will be a substitute for the documentary or parchment title.

But the registered ownership will remain subject to rights not usually included in the abstracts—

1. Rights in a physical, not legal sense.
2. Those supposed to attach on all land.
3. Such rights as may be ascertained by inspection, or inquiry of occupier, such as rights of water, rights of way, rights of sporting, rights of light, profits à prendre, tithe rent-charges, land tax, other taxes and rates, short rack-rent leases with occupation.

LXIV. It is suggested that facility will be afforded by register of obtaining loans.

The possession of the certificate of registered ownership will confer the same advantages as possession of title deeds.

LXV. Consideration of mode of protecting unregistered interests, and statement of the commissioners' views thereon. Equitable interests not to be put on the register, (but protected by caveats; see No. 67).

LXVI. Two parties may register themselves as owners, with the words "No survivorship."

LXVII. Parties having unregistered interests may protect themselves by caveat—

Not to be put on without consent of registered owner;

Or order of Court of Chancery, as in case of distringases on stock.

Not to be removed but on certain events or certain consents.

LXVIII. Protection of unregistered interests by injunction.

LXIX. Registered owner, for purposes of a settlement, not to retain registered ownership after trusts are satisfied.

LXX. On the death of registered owner, his executor to be his representative of the registered ownership; and if no executor, another registered owner to be appointed by registrar or a judge, on application of the parties interested.

LXXI. The commissioners intend that the same powers of disposition and enjoyment, and means of protection and security, should be left to the owners of land as at present, and they consider that the plan recommended secures this object, except when a transfer is by absence of a caveat impliedly permitted.

LXXII. Registered transferees without valuable consideration to be subject to the claims of persons interested in unregistered ownership, in the same manner as their transferor would have been; but purchasers from them without fraud not to be affected.

LXXIII. Fraud in obtaining a transfer of the registered ownership shall defeat registered ownership acquired by fraud; but notice of unregistered rights shall not, as notice, have such effect.

LXXIV. The Report recommends—

1. That registrar may require description of property to be such as he deems best.
2. That registrar may require production of a private map, on such scale as he shall by regulation require.
3. That such map shall be referred to in the description to be put on the register.
4. That registrar may require a reference in the description of the property to a public map.
5. That registrar may declare any maps to be public maps for the purpose of registry.
6. That registrar may adapt the maps to the registration districts, or the districts to the maps.

LXXV. When the registered ownership is unfettered by caveat, the registered owner can require a transfer on production of certificate of registered ownership.

The purchaser also to produce a deed of grant.

The transfer to be made by deed in simple form authorised by the act.

Proper evidence to be adduced to registrar of validity of deed.

And the registrar, on completion, will deliver to transferee a fresh certificate of registered ownership. This will give the person so registered a title absolutely free from all interests created since the first registration, except easements, registered leases, and registered charges.

LXXVI. Incumbrances and charges are to be registered as follows:—

1. So as to shew name, land, amount secured, rate of interest, and date of instrument.
2. To be registered with consent, or the order of Court.
3. The land may be transferred, subject to the charge, or the charge may be transferred independent of the registered owner.
4. A certificate of the charge to be given by registrar to the party.
5. The priorities of charges to be determined according to the date of their respective registrations.
6. Unregistered charges to take effect as unregistered interests.

LXXVII. Leases for twenty-one years and upwards admitted to benefit of registration, subject to the following rules:—

1. The entry of the lease to shew the name of owner thereof, length of term, date, and rent.
2. Every such entry is to be with consent of registered owner, or order of competent court.
3. On registering the lease, the registered ownership will be subject thereto, and either may be transferred independent of the other.
4. A certificate of the lease will be given to the party registering it.

LXXVIII. Registered charges and registered leases are to be transferred in the same way as registered ownership, and on the death of registered owners, their representatives may be registered in their place.

LXXIX. The commissioners propose to vest in Court of Chancery powers for the purpose of allowing the conversion of land into money at once, with the concurrence only of the party in possession and enjoyment, and providing a place of deposit for the money for division among the parties entitled.

LXXX. The mode of indexing to be left chiefly to the determination of the registrar. There must be—1. An index of registered owners. 2. An index of incumbrancers. 3. An index of lessees.

LXXXI. Miscellaneous provisions:—

1. The title deeds not to be required to be delivered to the registrar.
2. Registrar to have the power of determining conflicting claims by consent, or of putting them in a course of judicial determination.
3. No tenancy in common to be allowed in a registered ownership.
4. Registrar to have power to make necessary regulations.
5. A difference of fees for large and small transactions.

LXXXII. The authority of the registrar, as a general principle, should be ministerial and executive, not judicial.

XC. Improvements in the present law of real property, and the forms of conveyancing, recommended to be made concurrently with the introduction of the system of registration of title.

XCI. Partial establishment of registrar recommended, confined at first to some particular county or district.

XCII. Remuneration of solicitors to be reconsidered in reference to their duties and responsibilities.

EXAMINATIONS AT THE INCORPORATED LAW SOCIETY.

MICHAELMAS TERM, 1857.

At the examination of candidates for admission on the roll of attornies and solicitors of the superior courts, the examiners considered the following gentlemen as the candidates under the age of twenty-six who deserved honorary distinction of the first class:—

1. Frederick Adolphus Philbrick, B. A., of Colchester, aged twenty-two, who served his clerkship to Mr. Frederick Blomfield Philbrick, of Colchester, and Messrs. Rixon, Son, & Anton, of 38, Cannon-street, London.

2. William Melmoth Walters, of 14, Hyde-park-gate South, Kensington-gore, aged twenty-two, who served his clerkship to Messrs. Walters, Roumieu, & Young, of Lincoln's-inn.

3. John Park Robinson, of Liverpool, aged twenty-three, who served his clerkship to Messrs. Lowndes, Robinson, & Bateson, of Liverpool.

The Council of the Incorporated Law Society have accordingly awarded the following prizes of books:—To Mr. Philbrick, one of the prizes of the Incorporated Law Society, and also, as a mark of peculiar distinction, the prize of the Honourable Society of Clifford's-inn; to Mr. Walters, one of the prizes of the Incorporated Law Society; and to Mr. Robinson, one of the prizes of the Incorporated Law Society.

The examiners have also certified that the following candidates passed examinations nearly equal to those who have been reported for prizes:—

1. Henry Harper Geach, of 35, Alwyne-road, Islington, aged twenty-one, who served his clerkship to Mr. Robert Walker Childs, of 25, Coleman-street, City.

2. Arthur James Fitzhugh, of Street, Sussex, aged twenty-three, who served his clerkship to Messrs. Hoper, Greene, & Husey-Hunt, of Lewes, and Mr. William Francis Holcroft, of Sevenoaks, and Messrs. Loftus & Young, of New-inn, London.

3. Charles Swinden, of Birmingham, aged twenty-

three, who served his clerkship to Mr. Robert Dolphin, of Birmingham, and Messrs. Sudlow, Torr, Janeway, & Tagart, of Bedford-row, London.

By order of the Council,
ROBERT MAUGHAM, Secretary.
Law Society's Hall, Nov. 19, 1857.

Court Papers.

EQUITY SITTINGS, AFTER MICHAELMAS TERM, 1857.

Court of Chancery.

Before the LORD CHANCELLOR.

At Lincoln's Inn.

Wednesday .. *Dec.*	2	First Seal.—Appeal Motions and Appeals.
Thursday	3	Petitions and Appeals.
Friday	4	Appeals.
Saturday	5	
Monday	7	
Tuesday	8	
Wednesday	9	Second Seal.—Appeal Motions and Appeals.
Thursday	10	Appeals.
Friday	11	
Saturday	12	
Monday	14	
Tuesday	15	
Wednesday	16	Third Seal.—Appeal Motions and Appeals.
Thursday	17	Appeals.
Friday	18	
Saturday	19	
Monday	21	Petitions and Appeals.
Tuesday	22	Fourth Seal.—Appeal Motions and Appeals.

Before the LORDS JUSTICES.

At Lincoln's Inn.

Wednesday .. *Dec.*	2	First Seal.—Appeal Motions and Appeals.
Thursday	3	Appeals.
Friday	4	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday	5	Appeals.
Monday	7	
Tuesday	8	
Wednesday	9	Second Seal.—Appeal Motions and Appeals.
Thursday	10	Appeals.
Friday	11	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday	12	Appeals.
Monday	14	
Tuesday	15	
Wednesday	16	Third Seal.—Appeal Motions and Appeals.
Thursday	17	Appeals.
Friday	18	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday	19	Appeals.
Monday	21	
Tuesday	22	Fourth Seal.—Appeal Motions.

Notice.—The days (if any) on which the Lords Justices shall be engaged in the full Court or at the Judicial Committee of the Privy Council are excepted.

Before the Right Hon. the MASTER OF THE ROLLS.

At Chancery-lane.

Wednesday .. *Dec.*	2	First Seal.—Motions.
Thursday	3	General Paper.
Friday	4	
Saturday	5	
Monday	7	
Tuesday	8	
Wednesday	9	Second Seal.—Motions.
Thursday	10	General Paper.
Friday	11	
Saturday	12	
Monday	14	
Tuesday	15	
Wednesday	16	Third Seal.—Motions.
Thursday	17	General Paper.
Friday	18	
Saturday	19	
Monday	21	General Petition-day.
Tuesday	22	Fourth Seal.—Motions and remaining Petitions.

Short Causes, Short Claims, Consent Causes, Unopposed Petitions, and Claims every Saturday. The Unopposed Petitions to be taken first.

Notice.—Unopposed Petitions must be presented, and copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard.

Before Vice-Chancellor Sir RICHARD T. KINDERSLEY.

At Lincoln's Inn.

Wednesday .. *Dec.*	2	First Seal.—Motions & General Paper.
Thursday	3	General Paper.
Friday	4	Petitions (unopposed first).
Saturday	5	Short Causes, Short Claims, & Causes.
Monday	7	General Paper.
Tuesday	8	
Wednesday	9	Second Seal.—Motions and General Paper.
Thursday	10	General Paper.
Friday	11	Petitions (unopposed first).
Saturday	12	Short Causes, Short Claims, & Causes.
Monday	14	General Paper.
Tuesday	15	
Wednesday	16	Third Seal.—Motions and General Paper.
Thursday	17	General Paper.
Friday	18	Petitions (unopposed first).
Saturday	19	Short Causes, Short Claims, & Causes.
Monday	21	General Paper.
Tuesday	22	Fourth Seal.—Motions, remaining Petitions, and General Paper.

Before Vice-Chancellor Sir J. STUART.

At Lincoln's Inn.

Wednesday .. *Dec.*	2	First Seal.—Motions & General Paper.
Thursday	3	General Paper.
Friday	4	Petitions and General Paper.
Saturday	5	Short Causes and Claims, and General Paper.
Monday	7	General Paper.
Tuesday	8	
Wednesday	9	Second Seal.—Motions and General Paper.
Thursday	10	General Paper.
Friday	11	Petitions and General Paper.
Saturday	12	Short Causes and Claims, and General Paper.
Monday	14	General Paper.
Tuesday	15	
Wednesday	16	Third Seal.—Motions and General Paper.
Thursday	17	General Paper.
Friday	18	Petitions and General Paper.
Saturday	19	Short Causes and Claims, and General Paper.
Monday	21	General Paper.
Tuesday	22	Fourth Seal.—Motions.

Before Vice-Chancellor Sir W. P. WOOD.

At Lincoln's Inn.

Wednesday .. *Dec.*	2	First Seal.—Motions & General Paper.
Thursday	3	General Paper.
Friday	4	

Saturday	5	Petitions, Short Causes and Claims, and General Paper.
Monday	7	General Paper.
Tuesday	8	
Wednesday	9	Second Seal.—Motions and General Paper.
Thursday	10	General Paper.
Friday	11	
Saturday	12	Petitions, Short Causes and Claims, and General Paper.
Monday	14	General Paper.
Tuesday	15	
Wednesday	16	Third Seal.—Motions and General Paper.
Thursday	17	General Paper.
Friday	18	
Saturday	19	Petitions, Short Causes and Claims, and General Paper.
Monday	21	General Paper.
Tuesday	22	Fourth Seal.—Motions and General Paper.

Notice.—Claims will be placed in the paper after Short Causes, on each Saturday, in precedence of the General Paper.

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EQUITY CAUSE LISTS, AFTER MICHAELMAS TERM, 1857.

*** The following abbreviations have been adopted to abridge the space the Cause Papers would otherwise have occupied:—*A.* Abated—*Adj.* Adjourned—*A. T.* After Term—*Ap.* Appeal—*C. D.* Cause Day—*Cl.* Claim—*C.* Costs—*D.* Demurrer—*E.* Exceptions—*F. D.* Further Directions—*M.* Motion—*P. C.* Pro Confesso—*Pl.* Plea—*Ptn.* Petition—*R.* Rehearing—*S. O.* Stand Over—*Sh.* Short.

Before the LORD CHANCELLOR.

APPEALS.

Cotesworth v. M'Gachen (*after Hil. Term*)
Fowler v. Wyatt
Perry-Herrick v. Attwood.

Before the LORDS JUSTICES.

APPEALS.

Harrison v. Mayor, &c. of Southampton
Watson v. Argile
Brooke v. Garrod
Pell v. De Winton.

Before the Right Hon. the MASTER OF THE ROLLS.

CAUSES, &c.

Burton v. Joel (Pl & D of deft. Joseph Joel)
Att.-Gen. v. Dean, &c. of Windsor (M for decree)
Lowe v. Lowe (Cause)
Bainbridge v. Bainbridge (Ca.)
Ward v. Tyrrell (Cause)
Alsop v. Bell (Cause)
Williams v. Page (Cause)
Baxter v. Charlesworth (M for decree)
Tracy v. Butcher (M for decree)
Att.-Gen. v. West (Cause)
Jeans v. Cooke (Cause)
Holgate v. Jennings (Further consideration, and summons to vary certificate)
Smith v. Metropolitan Board of Works (Cause)
Scott v. Sheppard (Cause)
Brown v. Brown (M for dec.)
Ellis v. Bartram }
Bartram v. Ellis } Furth. con. and 2 sum. to vary certificate
Landon v. Landon (M for decree)
Harrison v. Drew (Sp. case)
Vyvyan v. Braddon (Further consideration)
Shepherd v. Churchill (Further consideration, Ptn)
Moore v. Petchell (Further consideration, and summons to vary certificate)
Baker v. Colmer (3) (F D, C)
Arrowsmith v. Wetherell (Further consideration)
Bown v. Stenson (Cl)
Brunskill v. Caird (Further consideration)
Birds v. Askey (Further consideration)
Crallan v. Oulton (6) (F D, C)
Morley v. Morley (M for dec.)
Merchant Taylors' Co. v. Truscott (Further consideration, and M to vary certificate)
Garnett v. Acton (Further consideration, and 2 summonses to vary certificate)
Dawes v. Ridgway (Further consideration)
Lake v. Brutton }
Lake v. Brutton } (Further considerat.)
Chancellor v. Morecraft (4) (F D, C)
Biron v. Mount (Further consideration)
Att.-Gen. v. Moises (4) (F D, C)
Att.-Gen. v. Master, Wardens, and Commonalty of Merchant Venturers of the City of Bristol (F D, C)
Golder v. Cropp (M for dec.)
Irby v. Irby (Further cons.)
Downes v. Bullock (Cause)
Wiatt v. Wainewright (Cause)
Harvey v. Clarke (M for dec.)
Whitehurst v. Davis }
Barton v. Green } (F D, C)
Tullet v. Oldham (Further consideration)
Hughes v. Davies (Cause)
Fowler v. Cohn (Further consideration)
Evans v. Nelmes }
Evans v. Clarke } (F D, C)
Fletcher v. Churton (M for decree)
Stocks v. Vining (M for dec.)
Tyler v. Thomas (Cause)
Royds v. Cope (M for decree)
Pontey v. Tucker (M for dec.)
Goodwin v. Finlayson (M for decree)
In re Johnson }
Biffin v. Johnson }
Moffatt v. Johnson } (Further con. adj. from ch.)
Ibbetson v. Grote (Sp. case)
Creswell v. Knowles (Cl)
Parsons v. Bonner (M for decree)
Dymond v. Wotton (M for decree)
Lyte v. Lyte (Further cons.)
Cusse v. Roxbee (Cl)
Attree v. Sherwin (Cl)
Davies v. Hodgson (Cause)
Clark v. Maugham (M for dec.)
Att.-Gen. v. Ward (Further consideration)
Sanderson v. Clark (Cl) *Sh*
Steele v. Johnson (Further consideration)
Fenn v. Death (Further cons.)
Lawrence v. Yardley (M for decree) *Sh*
Bradstock v. Whatley (E to report, F D, C)
Rowcliffe v. Hodges (M for decree)
Carr v. Living (Cause)
White v. Turner (M for dec.)
Official Manager of the Royal Bank of Australia v. Pryme (Further consideration)
Sinnott v. Fuller (M for dec.)
Spicer v. Dawson (Further consideration)
Unity Joint-stock Mutual Association v. King (Cause).

Before Vice-Chancellor Sir RICHARD T. KINDERSLEY.

CAUSES, &c.

Lord v. Colvin (Cause, part heard)
Colvin v. Lord (Cause)
Cochrane v. Cochran }
Barton v. Colvin }
Lord v. Colvin }
Lord v. Colvin }
Lord v. Colvin } (Rehear.)
Moorhouse v. Colvin (Cause)
Fox v. Charlton (M for dec.)
Hall v. Fox (M for dec., Ptn)
Owen v. Roberts (Cl)
Wilson v. Beddard (F D, C)
Merlin v. Murphy (M for dec.)
Kenrick v. Wilcox (Further consideration)
Shrapnell v. Shrapnell (Further consideration) *Sh*
Pooley v. Quilter (Cause)
Wayne v. Lewis }
Wayne v. Parke } (Further cons., and summ. to vary certif.)
Sterky v. Holmes (Cause)
Holmes v. Sterky (Cause)
Goddard v. Mann (M for dec.)
M'Larty v. Middleton (Cause)
Hardingham v. Thomas (Further consideration)
Grindrod v. Grindrod (M for decree)
Bland v. Turner (M for dec.)
Francis v. Ashwell (Cause)
Leeds v. Lewis (Cause)
Baldry v. Baker (Cause)
Statham v. Storer (F D, C)
Bengough v. Edridge (M for decree)
Thornber v. Wilson (Further consideration)
Greatrex v. Duffield (Further consideration)
Royon v. Paul (M for decree)
In re Stanton }
Stanton v. Muggeridge } (Further cons. from chambers, Summons)
In re Nowell }
Cruse v. Nowell }
Cruse v. Knight } (Fur. cons. adj. from chambers).

Before Vice-Chancellor Sir J. STUART.

CAUSES, &c.

Scott v. Mayor, &c. of Liverpool (Cause)
Hutton v. Taylor }
George v. Taylor } (Cause)
Cory v. Watts (M for decree)
Parker v. Taswell (M for decree)
Shaw v. Walker (Further consideration)
Fox v. Newstead (M for dec.)
Hellis v. Bryant (Further consideration)
Walker v. Whitehouse (M for decree)
Wilkinson v. Redhead (Cause)
Fisk v. Norton (3) (Further consideration, Ptn)
Howorth v. Tolson }
Tolson v. Howorth } (M for decree)
Powell v. Pritchard (M for decree)
Aylmer v. Bodger (M for dec.)
Churchill v. Holmes (M for decree)
Neve v. Thompson (M for decree)
Price v. Watson (Further consideration)

Harries *v.* Jenkins (Cause)
Baily *v.* Taylor (M for decree)
Fisher *v.* Taylor (Further consideration)
Edwards *v.* Waters (Further consideration)
Stansfield *v.* Cubitt (M for decree)
Chadwick *v.* Chadwick (Cau.)
Tindale *v.* Roberts (M for decree)
Younghusband *v.* Carlisle and Silloth Bay Railway and Dock Co. (M for decree)
Smith *v.* Pilkington (Cause)
Pain *v.* Coombs (Adj. sum.)
Platts *v.* Platts (Cause)
In re Gulliver
Stroughill *v.* Gulliver } (Fur. cons.)
Simpson *v.* Tilby (Cause)
Brown *v.* Brown (Further consideration)
Basford *v.* Hopkins
Singleton *v.* Hopkins } (Fur. cons.)
Allen *v.* Liveing (Further consideration)
Fox *v.* Fox (Further consid.)
Curgenven *v.* Curgenven (M for decree)
Gillard *v.* Check (Cause)
Griffiths *v.* Bedborough (Cau.)
Bird *v.* Mayhew (M for dec.)
Morrall *v.* Pritchard
Morrall *v.* Pritchard } (E of plaint., F D, C)
Godson *v.* Higginson (M for decree)
Morrall *v.* Pritchard
Morrall *v.* Pritchard } (E of defts.)
Simpson *v.* Wood (Further consideration)
Stroud *v.* Acraman (M for decree)
Crosher *v.* Willey (M for dec.)
Bigg *v.* Strong (Cause)
M'Donald *v.* Richardson (M for decree)
Carrington *v.* Younghusband (Cause)
Blackford *v.* Blackford (M for decree)
Britton *v.* Mars (Cause)
Campbell *v.* Vandervell (Cau.)
Tucker *v.* Loveridge (M for decree)
Annandale *v.* Beckwith (M for decree)
Ridgway *v.* Newstead (M for decree)
Jenkins *v.* Homfray (M for decree)
Talbot *v.* Stephenson (Cause)
Richardson *v.* Martin (M for decree)
Heap *v.* Heap (M for decree)
Hardwicke *v.* Hardwicke (M for decree)
Coates *v.* Saunders (Cause)
Lace *v.* Lee (Cause)
Neighbour *v.* Brown (M for decree)
Edmonds *v.* Smith (Cause)
Manchee *v.* Kay (M for dec.)
Horsfall *v.* Garnett (Cause)
Davies *v.* Dimsdale (M for decree)
Garsden *v.* Dugdale (M for decree)
Prole *v.* Soady (M for decree)
Carrington *v.* Carrington (M for decree)
Ernest *v.* Cutts (Cause, P C)
Official Manager of the Athenæum Life Assurance Society *v.* Bartlett (Cause)
Official Manager of the Athenæum Life Assurance Society *v.* Pooley (Cause)
Wythes *v.* Labouchere (Cause)
Burrell *v.* Moffatt (M for dec.)
Perkins *v.* Owen (Cause)
Mumford *v.* King (M for decree)
Mitchell *v.* Barlee (Cause)
Brooksbank *v.* Firth (Cause)
Freme *v.* Brade (M for decree)
Lloyd *v.* Attwood (Cause)
Attwood *v.* Lloyd (Cause)
Desvignes *v.* Mount (Cause)
Barnes *v.* Ridgway
Barnes *v.* Binghall } (Further consid.)
In re Brocksopp's Estate
Brocksopp *v.* Brocksopp } (Fur. cons. from cham.)
Willis *v.* Hogge (M for decree)
Tucker *v.* Robinson (F D, C)
Gould *v.* Gould (F D, C)
Laen *v.* Allvey (M for decree) *Sh*
Bosley *v.* Holmes (Further consideration)
Spittle *v.* Spittle (M for dec.)
Matthias *v.* Matthias (F D, C)
Hartley *v.* Aspden (M for decree)
Hartley *v.* Allgood (M for decree)
Collings *v.* Cox (F D, C).

Before Vice-Chancellor Sir W. P. WOOD.

CAUSES, &c.

Commissioners of Sewers for the Levels of Havering Dagenham, Ripple, &c. *v.* Victoria London Dock Co. (D)
Collins Co. *v.* Cohen (E to answer)
Earp *v.* Lloyd (E to answer)
Green *v.* Scott (E to answer)
Mealor *v.* Earl Talbot (Pl)
Spiers *v.* Brown (M for decree, part heard)
Browne *v.* London Necropolis & National Mausoleum Co. (M for decree)
Richardson *v.* Adams (M for decree)
Soar *v.* Foster (Cause)
Grinsted *v.* Marsh (Cause)
Kitson *v.* Shaw (M for decree)
Rogers *v.* Rogers (M for dec.)
Att.-Gen. *v.* Pretyman
Att.-Gen. *v.* Dean, &c. of Lincoln } (E to Master's report)
Att.-Gen. *v.* Pretyman
Att.-Gen. *v.* Dean, &c. of Lincoln } (F D, C)
Att.-Gen. *v.* Pretyman
Att.-Gen. *v.* Bishop of Lincoln } (F D, C)
Clubb *v.* Harris (Cause)
Talbot *v.* Kemshead (Cause)
Handley *v.* Worthington (M for decree)
Merryweather *v.* Walker (Sp. case)
Alexander *v.* Alexander (M for decree)
Brown *v.* Stockton and Darlington Railway Co. (M for decree)
Wilkinson *v.* Wilkinson (Ca.)
Chappell *v.* Haynes (Sp. case)
Hill *v.* Walker (Cause)
Wycherley *v.* Barnard (M for decree)
Goodman *v.* Robinson (M for decree)
Vandenberg *v.* Palmer (Cause)
Bourdillon *v.* Roche (Cause)
Martin *v.* West of England Fire and Life Insurance Co. (Cause)
Beavan *v.* Macqueen (Cause)
Hughes *v.* Evans (Cause, M to vary certificate)
Robinson *v.* Preston (M for decree)
Jackson *v.* Price (M for dec.)
Whitmore *v.* Lane (M for decree)
Taylor *v.* Roebuck (M for decree)
Lord Ongley *v.* Lindsell (M for decree)
Hutchins *v.* Osborne (Sp. ca.)
Hayter *v.* Tucker (Further consideration, part heard)
Fairband *v.* Murgatroyd (Further consideration)
Hiron *v.* Bourne (Further consideration)
Crosthwaite *v.* Dean (Further consideration)
Tabor *v.* Pooley (Further consideration) *Sh*
Walker *v.* Peddle (Further consideration)
Blake *v.* Holford (Further consideration)
Wilkes *v.* Jones (Further consideration)
Taylor *v.* Millington (Further consideration)
Dixon *v.* Peel (Further cons.)
Benson *v.* Sarl (Cause)
Webb *v.* Webb (M for decree)
Green *v.* Eastern Counties Railway Co. (Cause)
Perkins *v.* Mellor (Further consideration)
Powell *v.* Aiken (Cause)
Abbott *v.* Blair (Cause)
Gedye *v.* Duke of Montrose (Cause)
Te Cwm Eigia Quarry Slate and Slab Co. (Limited) *v.* Lee (M for decree)
Foster *v.* Strong (Cause)
Harries *v.* Williams (M for decree)
Notley *v.* Izant (Cause)
Earp *v.* Lloyd (M for decree)
Smith *v.* Lay (Further consideration, M to vary certif.)
Copping *v.* Douglas (M for decree) *Sh*
Clarke *v.* Franklin (Further consideration)
Bourne *v.* Dugard (Further consideration)
Andrews *v.* Taylor (Further consideration)
Smith *v.* Beatie (Cl)
Clements *v.* Nightingale
Nightingale *v.* Clements } (Further considerat.)
Whapham *v.* Atkinson (Cau.)
Hebblethwaite *v.* Hebblethwaite (Further considerat.)
Light *v.* Light (M for decree)
Featherstonehaugh *v.* Turner (M for decree)
Jennings *v.* Cook (Further consideration)
Wright *v.* Lamb
Wright *v.* Lietch } (Further consider.)
Lawrenson *v.* Lawrenson (M for decree, Ptn)
Ferris *v.* Goodburn (Further consideration)
Lister *v.* Denton (M for dec.)
Leake *v.* Taylor (M for decree)
Rhodes *v.* Pickup (M for decree)
Barrack *v.* M'Culloch (Further consideration)
Harris *v.* Combe (Further consideration)
Payn *v.* Hornby (Cause)
Meek *v.* Hebden (Further consideration)
Gardner *v.* Smith (Further consideration)
Marriott *v.* Douglass (M for decree)
Jacobs *v.* Moody (M for dec.)
Fagg *v.* Fagg (M for decree)
Tootal *v.* Croysdale (M for decree)
Hernaman *v.* Buck (Cause)
Wharton *v.* Barker (3) (Further consideration)
Harrison *v.* Carruthers (M for decree)
Att.-Gen. *v.* East Dereham Corn Exchange Co. (M for decree)
Smith *v.* Forshaw (M for dec.)
In re Clarke
Shaw *v.* Clarke } (Further considerat., adj. from chambers)
Errington *v.* Blundell (M for decree)
Gash *v.* Ashcombe (M for decree)
Collinson *v.* Aviss (Further consideration)
Holroyd *v.* Barlow (M for decree)
Birley *v.* Birley (M for decree)
Jones *v.* Pitt (Cl)
Pennell *v.* Lamb (M for decree)
Charlton *v.* Hampstead Junction Railway Co. (M for decree, M)
Lane *v.* Tarte (M for decree)
Whiteley *v.* Whiteley (M for decree)
Watson *v.* Murray
Watson *v.* Sturgis } (Further consid.)
Dollman *v.* Hampstead Junction Railway Co. (M for decree)
White *v.* Scott (M for decree)
Greaves *v.* Wilson (M for dec.)
Steward *v.* Heath (Further consideration)
Pee *v.* Pee (Cause) *Sh*
Tichborne *v.* Gosford (M for decree).

Morrison, Paisley, manufacturers. — *John Tait*, Glasgow, baker.—*Alexander Robertson*, Greenhead, near Govan, market gardener.—*William Macalister*, Glasgow, shawl mannfacturer.

Tuesday, *Dec.* 1.

Bankrupts.

LEON LEMPART, Brunswick-place, City-road, Middlesex, and Fenchurch-street, City, general merchant, Dec. 11 at half-past 2, and Jan. 12 at 2, London: Off. Ass. Edwards; Sols. J. & S. Solomon, 22, Finsbury-place. — Pet. f. Nov. 27.

LOUIS MORICE BACHRACH, Clement's-lane, City, and Orchard-cottage, Albert-road, Dalston, Middlesex, merchant, (trading as L. M. Bachrach & Co.), Dec. 11 at 3, and Jan. 12 at 2, London: Off. Ass. Edwards; Sols. Ashurst & Co., 6, Old Jewry.—Pet. f. Nov. 23.

WILLIAM LAKE, Banbury, Oxfordshire, tailor, Dec. 14 and Jan. 18 at 12, London: Off. Ass. Nicholson; Sols. Smith & Shepherd, 15, Golden-square.—Pet. f. Nov. 25.

JOHN MAPP the younger, Gray's-inn-lane, licensed victualler, Dec. 14 at 1, and Jan. 18 at 11, London: Off. Ass. Pennell; Sols. Mackeson & Golding, 59, Lincoln's-inn-fields.—Pet. f. Nov. 30.

JAMES LOW, Rayleigh, Essex, carpenter. Dec. 11 and Jan. 14 at 12, London: Off. Ass. Bell; Sol. M'Gregor, 10, Sise-lane.—Pet. f. Nov. 18.

JOHN KING WESTROP, Staining-lane, City, glove manufacturer, Dec. 16 and Jan. 18 at 1, London: Off. Ass. Nicholson; Sols. Reed & Co., 59, Friday-street, Cheapside; Freestone, Norwich.—Pet. f. Nov. 30.

CHARLES EDWARD HANDY, Darlaston, Staffordshire, apothecary, Dec. 11 at half-past 10, and Jan. 9 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham.—Pet. f. Nov. 26.

JOHN WILLIAMS, Harley Kings, Worcestershire, plumber, Dec. 11 at half-past 10, and Jan. 9 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Saunders & Son, Kidderminster; James & Knight, Birmingham.—Pet. d. Nov. 20.

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Meetings.

Thomas Gutteridge, Wilton, near Salisbury, Wiltshire, innkeeper, Dec. 15 at 2, London, last ex.—*John Davis Gotch* and *Thomas Henry Gotch*, Kettering and Rowell, Northamptonshire, and Long-acre, Middlesex, bankers, Dec. 15 at 12, London, last ex.—*Henry Stubbs*, Bishop's Sutton, Southampton, corn dealer, Dec. 24 at 2, London, last ex.—*Jas. Choat*, Albert-road, Dalston, Middlesex, tailor, Dec. 18 at 12, London, last ex.—*James Francis Hookham*, Eyre-street-hill, Leather-lane, Holborn, licensed victualler, Dec. 11 at 11, London, aud. ac.—*Medbury Joyce*, St. Neots, Huntingdonshire, timber merchant, Dec. 15 at half-past 12, London, aud. ac.—*William Anderson*, Broad-street, Ratcliff, Middlesex, plumber and painter, Dec. 15 at 12, London, aud. ac.—*Richard Batley*, Gifford-street, Caledonian-road, merchant, Dec. 11 at 11, London, aud. ac.—*Wm. Freeman*, Fleet-st., bookseller, Dec. 11 at 12, London, aud. ac.—*Francis Brewer Coleman*, Queen's-buildings, Brompton, linendraper, Dec. 17 at 12, London, aud. ac.—*James Crocker*, Okehampton, Devonshire, ironmonger, Dec. 17 at 11, Exeter, aud. ac.—*W. Lodge*, Almondbury and Huddersfield, Yorkshire, cloth manufacturer, Dec. 22 at 11, Leeds, aud. ac. and div.—*Wm. Keighley*, *Sugden Keighley*, and *Joseph Keighley*, Keighley, Yorkshire, worsted manufacturers, Dec. 14 at 11, Leeds, aud. ac.—*James Richardson*, *John Sanders Wicks*, and *Henry Smith*, Upper Queen's-buildings, Brompton, upholsterers, Dec. 23 at 12, London, div. sep. est. of *Henry Smith;* at half-past 12, div. joint est.—*Samuel Gifford*, Mark-lane, sail-cloth merchant, Dec. 22 at half-past 1, London, div.—*John Taylor*, Leicester, manufacturer of fancy hosiery, Jan. 5 at half-past 10, Nottingham, aud. ac. and div.—*Edw. Ashwell*, Gosberton, Lincolnshire, grocer, Jan. 7 at half-past 10, Nottingham, aud. ac. and div.—*Francis Meredith Caporn*, Nottingham, lace manufacturer, Jan. 5 at half-past 10, Nottingham, aud. ac. and div.—*Robert Simpson*, Sedgefield, Durham, draper, Dec. 23 at half-past 11, Newcastle-upon-Tyne, fin. div.—*James M'Cartney*, South Shields, Durham, provision merchant, Dec. 23 at 11, Newcastle-upon-Tyne, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Meldrum Christie, Oxford-street, baker, Dec. 24 at 11, London.—*Richard Palmer*, Brighton, Sussex, plumber, Dec. 24 at half-past 11, London.—*Charles Edward Back*, Tottenham-court-road, grocer, Dec. 24 at half-past 12, London.—*Wm. Buddle*, Delamere-terrace, Paddington, builder, Dec. 22 at 2, London.—*Edward Huxley*, Old Cavendish-st., surgical bandage maker, Dec. 22 at 1, London.—*Thomas Hawley*, Blackfriars-road, Surrey; Clement's-inn-passage, Strand; King's-road, Chelsea; and Crawford-street, Marylebone, Middlesex, grocer, Dec. 23 at 1, London.—*George H. Sellers*, Liverpool, merchant, Dec. 23 at 2, London.—*John Badham*, Hillingdon, Middlesex, builder, Dec. 22 at 1, London.—*Edward Small*, Canterbury, Kent, plumber, Dec. 23 at half-past 11, London.—*Richard Sydney Lambert*, Bristol, dealer in manure, Dec. 29 at 11, Bristol.—*Ellis Williams*, Holyhead, Anglesea, ironfounder, Dec. 24 at 12, Liverpool, —*Thomas Garniss*, Great Grimsby, Lincolnshire, tailor, Dec. 23 at 12, Kingston-upon-Hull.

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ROBERT WHISTON and JAMES HENRY STAPLES WILDSMITH, Wolverhampton, Staffordshire, manufacturing chemists, Dec. 16 and Jan. 6 at half-past 10, Birmingham: Off. Ass. Whitmore; Sols. Pinchard & Shelton, Wolverhampton; Hodgson & Allen, Birmingham.—Pet. d. Dec. 2.

ROBERT WHISTON, Wolverhampton, Staffordshire, builder, Dec. 16 and Jan. 6 at half-past 10, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham.—Pet. d. Dec. 2.

EBENEZER GOOLD, Leamington Priors, Warwickshire, bookseller, Dec. 19 and Jan. 9 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham.—Pet. d. Dec. 1.

JOSEPH GOSLOW, Walsall, Staffordshire, licensed victualler, Dec. 19 and Jan. 9 at half-past 11, Birmingham: Off. Ass. Whitmore; Sol. East, Birmingham.—Pet. d. Dec. 2.

JOHN WARDEN, Stratford-upon-Avon, Warwickshire, hotel proprietor, Dec. 19 and Jan. 9 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Lane, Stratford-upon-Avon; Hodgson & Allen, Birmingham.—Pet. d. Dec. 2.

HENRY FARRINGTON, Walsall, Staffordshire, auctioneer, Dec. 18 and Jan. 14 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Wilkinson, jun., Walsall; James & Knight, Birmingham.—Pet. d. Dec. 3.

CHARLES SMITH, Alderwasley, Derbyshire, miller, Dec. 18 and Jan. 7 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. Dec. 1.

WILLIAM CONDUIT, New Lenton, Nottinghamshire, lace manufacturer, Dec. 22 and Jan. 7 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Sollory, Nottingham.—Pet. d. Dec. 1.

JOHN WILKINS, Barkwell, Somersetshire, innkeeper, Dec. 15 and Jan. 12 at 11, Bristol: Off. Ass. Acraman; Sol. Bevan, Bristol.—Pet. f. Dec. 2.

JOHN SEAGER, Bristol, maltster, Dec. 15 and Jan. 11 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Girling, Bristol.—Pet. f. Nov. 27.

THOMAS BOON CLEMENTS and HENRY POTTER, Bristol, wholesale toy dealers, Dec. 15 and Jan. 11 at 11, Bristol: Off. Ass. Miller; Sol. Bevan, Bristol.—Pet. f. Nov. 30.

WILLIAM CROMPTON, Kingston-upon-Hull, licensed victualler, Dec. 16 and Jan. 13 at 12, Kingston-upon-Hull: Off. Ass. Hope; Sols. Levett & Champney, Kingston-upon-Hull.—Pet. d. Nov. 25.

ABRAHAM HILL, Bradford, Yorkshire, grocer, Dec. 15 at 12, and Jan. 12 at 11, Leeds: Off. Ass. Hope; Sols. Bond & Barwick, Leeds.—Pet. d. Dec. 1.

EDWARD MEYERS, Leeds, grocer, Dec. 17 and Jan. 22 at 11, Leeds: Off. Ass. Young; Sols. Evans & Son, Liverpool; Bond & Barwick, Leeds.—Pet. d. Nov. 30.

JAMES HENRY BUTLER, Liverpool, merchant, Dec. 18 and Jan. 8 at 11, Liverpool: Off. Ass. Turner; Sols. Vining & Co., 9, Tokenhouse-yard.—Pet. f. Nov. 30.

CHARLES HARRISON, Runcorn, Cheshire, ropemaker, Dec. 22 and Jan. 12 at 11, Liverpool: Off. Ass. Morgan; Sol. Jenkins, Liverpool.—Pet. f. Nov. 23.

JAMES MULLINS, Liverpool, grocer, Dec. 22 and Jan. 12 at 11, Liverpool: Off. Ass. Morgan; Sols. Evans & Son, Liverpool.—Pet. f. Nov. 21.

JAMES CREDLAND, Hulme, Lancashire, builder, Dec. 16 and Jan. 29 at 12, Manchester: Off. Ass. Hernaman; Sols. Boote & Jellicorse, Manchester.—Pet. f. Nov. 30.

Meetings.

L. P. R. Fenwick de Porquet, Fenchurch-street, London, and Fairkytes, Hornchurch, Essex, dealer in agricultural implements, Dec. 16 at half-past 11, London, pr. d.—*George H. Skinner*, Queen-street, Cheapside, corn merchant, Dec. 17 at 12, London, last ex.—*Joseph Willmott* and *John Hartley*, Essex-street, Kingsland-road, Middlesex, and Battersea, Surrey, sawyers, Dec. 17 at 2, London, last ex.—*John Stokes*, St. George-street, St. George-in-the-East, Middlesex, corn chandler, Dec. 17 at 1, London, last ex.—*Thomas John Marshall*, Bishopsgate-street Without, London, engineer, Dec. 15 at half-past 1, London, last ex.—*James Andrewartha*, Alverstoke, Hampshire, grocer, Dec. 16 at 12, London, last ex.—*John Ellison*, Bread-street, Cheapside, London, and Harley-street, Cavendish-square, Middlesex, warehouseman, Dec. 17 at half-past 11, London, last ex.—*Thomas Chulee*, Aston Manor, juxta Birmingham, victualler, Dec. 17 at half-past 11, Birmingham, last ex.—*William Fisher*, Kilburn, Middlesex, butcher, Dec. 17 at 11, London, aud. ac.—*H. Brown*, Little Smith-street, Westminster, Middlesex, and Tewkesbury, Gloucestershire, shipowner, Dec. 17 at 12, London, aud. ac.—*J. Allington*, Norwich, grocer, Dec. 18 at 1, London, aud. ac.—*John Noakes*, Park-place, Kennington-cross, Surrey, linendraper, Dec. 18 at half-past 12, London, aud. ac.—*Tilden Smith*, *James Hilder*, *George Scrivens*, and *Francis Smith*, Hastings, Sussex, bankers, Dec. 16 at half-past 1, London, aud. ac. sep. est. of *George Scrivens*.—*Thomas Holmes*, St. Paul's-churchyard, London, bookseller, Dec. 16 at 11, London, aud. ac.—*John Brickwood* the elder, *John Brickwood* the younger, *J. Rainier*, *W. Morgan*, and *J. Starkey*, Lombard-street, London, bankers, Dec. 22 at 1, London, aud. ac.—*John Bowbeer*, Bristol, oil and colour man, Dec. 24 at 11, Bristol, aud. ac.; Jan. 7 at 11, div.—*Michael Byers* and *Thomas Byers*, Monkwearmouth Shore, Sunderland, Durham, shipbuilders, Dec. 16 at 12, Newcastle-upon-Tyne, aud. ac. joint est., and aud. ac. sep. est. of *M. Byers*.—*I. Kirkbride* and *J. Kirkbride*, Carlisle, stonemasons, Dec. 15 at 11, Newcastle-upon-Tyne, aud. ac.—*T. W. Nicholson*, Salter Hebble, near Halifax, Yorkshire, oil merchant, Dec. 17 at 11, Leeds, aud. ac.—*Richard May*, Tees Tilery, near Eston Junction, North Riding of Yorkshire, joiner, Dec. 17 at 11, Leeds, aud. ac.—*Matthew S. Beaumont*, Huddersfield, corn dealer, Dec. 17 at 11, Leeds, aud. ac.—*U. Wimpenny*, Holme Bridge, Almondbury, Yorkshire, woollen cloth manufacturer, Dec. 17 at 11, Leeds, aud. ac.—*John Bridges* and *Charles J. Carr*, Belper, Derbyshire, millwrights, Jan. 5 at half-past 10, Nottingham, aud. ac. and div.—*Evan Davies*, Swansea, Glamorganshire, linendraper, Jan. 7 at 11, Bristol, div.—*Wm. Glover*, Liverpool, innkeeper, Dec. 28 at 11, Liverpool, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Wm. Carr, Bishopsgate-street Without, Middlesex, and Walworth-road, Surrey, cheesemonger, Dec. 29 at half-past 12, London.—*John Rolfe* the younger, Leadenhall-st., City, tailor, Dec. 31 at half-past 1, London.—*John Bowbeer*, Bristol, oil and colour man, Dec. 28 at 11, Bristol.—*A. Holden*, Heap Brow, Heap, Bury, Lancashire, paper manufacturer, Dec. 29 at 12, Manchester.—*Joseph Wood*, Salford, timber merchant, Dec. 29 at 12, Manchester.—*Edward Rogers*, Oswestry, Shropshire, draper, Jan. 11 at 10, Birmingham.

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THE JURIST.

LONDON, DECEMBER 12, 1857.

As long ago as the year 1853 we took occasion to warn the public from being misled by the positive assertions made by a certain society, in the newspapers of the day, that a marriage between an Englishman and his deceased wife's sister would be valid if celebrated in a foreign country where such a marriage was legal. (See 17 Jur., part 2, p. 369). We then said that the doctrine of Lord Stowell on the subject, and of every other judge who had sat since his time, was this, that although the law of England requires itself certain forms and ceremonials for the contraction of a valid marriage in England, yet, upon general principles of convenience, it will treat as lawful in England a marriage contracted abroad without those ceremonials, if the marriage has been contracted in the form recognised by the law of the foreign state; but that neither Lord Stowell nor any other judge ever decided or said that where the law of England imposes a *personal incapacity* for marriage on particular persons, or, in other words, makes a marriage in England impossible with any ceremonial, it will recognise as valid a marriage contracted between such persons in a country whose laws permit it; and we expressed our opinion that no English Court would arrive at such a decision.

We have now the satisfaction of finding that our own views upon this important question are fully borne out and sanctioned by the opinion of so eminent a judge as Cresswell, J. In the case of *Brook* v. *Brook*, heard before Sir J. Stuart, V. C., assisted by Cresswell, J., the facts were, that William Leigh Brook, while domiciled in this country, married his deceased wife's sister (also domiciled in this country) at Altona, in the duchy of Schleswig-Holstein, where such a marriage is recognised by law. There were children by both marriages, and he left his property among them. The point was, whether the second marriage would be held valid in this country, and the issue of it be legitimate. Cresswell, J., decided both these questions in the negative. The Vice-Chancellor, however, reserved his decision, and at the time when we are writing has not delivered it. The learned judge who expressed his opinion on the subject first considered whether this marriage would have been voidable in the Ecclesiastical Court before the passing of the 5 & 6 Will. 4, c. 54, because, if so, it would be void after that enactment. Had it been celebrated in England it was clearly voidable before that statute, as having been celebrated between persons "within the Levitical degrees, and prohibited from marrying by the Holy Scriptures, as interpreted by the canon law and by the stat. 25 Hen. 8." (Per Parke, B., in *Sherwood* v. *Ray*, 1 Moo. P. C. 395; see also *Reg.* v. *Chadwick*, 11 Q. B. 205). And in answer to the contention, that by the law of nations the question of its validity was to be decided according to the law of the country where the marriage took place, his Lordship said that no decision could be found in which such respect had been paid in this country to the law of a foreign country recognising a marriage contrary to what we deem to be God's law. In the absence of such direct authority, writers on international law were resorted to, and among these, of course, Story's Conflict of Laws was mainly relied upon.

After stating the general principle to be, that if a marriage is valid where it is celebrated it is valid everywhere, and that among the most prominent exceptions to this rule are marriages involving polygamy and incest, that learned writer proceeds to confine this doctrine against the recognition of incestuous marriages to such cases as by the general consent of *all Christendom* are deemed incestuous. (Sects. 113, 113 a, 114). From this last position Cresswell, J., dissents. "How is a judge," he asked, "sitting in an English court of justice, called upon to decide whether a marriage be incestuous or not, to be guided in his decision? Surely, if the law of his own country has already settled what is incestuous or the contrary, by that he must be governed. Is he to inquire into the opinions of all other nations in which Christianity exists, and to adopt that rule which is ascertained to prevail among the greater number, and to say that it shall be acted upon in defiance of the law of his own country? This would, indeed, be enlarging the comitas gentium to an extent hitherto unheard of."

The general expressions attributed to writers respecting the legal ubiquity of obligation which attaches to marriages celebrated according to the lex loci contractûs are, in the learned judge's opinion, to be restrained by an implied proviso that such marriages are not contrary to the laws of this country, and apply only to the forms and solemnities of constituting a marriage, and to the proof of the parties having made a contract. With regard to the question whether the 2nd section of stat. 5 & 6 Will. 4, c. 54, is so framed as to be binding on all English subjects, wherever they may be, his Lordship considered that *The Sussex Peerage case* gave a decisive and satisfactory answer. The words of that section are, that "all marriages which shall hereafter be celebrated between persons within the prohibited degrees of consanguinity or affinity shall be absolutely null and void to all intents and purposes whatsoever." The words of the section (12 Geo. 3, c. 11, s. 1) involved in *The Sussex Peerage case* are, that no descendant of George II shall be capable of contracting matrimony without the consent of his Majesty, and that "every marriage of such descendant without such consent shall be null and void." Tindal, C. J., in expressing the opinions of the judges upon the question referred to them, said of this enactment, "The words of the statute itself appear to us to be free from ambiguity. The prohibitory words of it are general. . . . The statute does not enact an incapacity to contract matrimony within one particular country and district or another, but to contract matrimony generally and in the abstract. It is an incapacity attaching itself to the person of A. B., which he carries with him wherever he goes. . . . . The words employed are general, or, more properly, universal, and cannot be satisfied in their plain, literal, and ordinary meaning, unless they are held to extend to all marriages, in whatever part of the world they may have been contracted or celebrated."

"The whole of this passage," said Cresswell, J., "might have been written with reference to the statute of William IV, which does not enact an incapacity to contract matrimony within the prohibited degrees within one particular country and district or another, but to contract such marriage generally." "The object of the statute," he added, "was to put an end to all such marriages between English subjects for the future, and could not be satisfied by any narrower construction."

◆

We lately inserted a letter from a correspondent in which the writer points out what he considers a defect in the working of the Court for the Consideration of Crown Cases Reserved. We entirely agree with the remarks of our correspondent upon the important question to which he has called our attention. The complaint is, that all the cases which come before that Court for decision, and which when decided are binding upon all Courts, are not argued by counsel on both sides. Formerly it was the practice, when any objection was taken by a prisoner, on a trial before any court of oyer and terminer and gaol delivery, either to the indictment or the evidence, for the presiding judge, if he considered the objection worthy of it, to state a case for the consideration of all the judges, and if the judges, or a majority of them, thought the objection well founded, the prisoner was recommended to the Crown for a pardon. Upon a case so reserved the judges did not sit strictly as a court, but rather as assessors to the judge who had tried the case, and the judgment ultimately announced was considered as his judgment. The reasons of the judgment were never publicly given. The judges heard counsel for the prisoner, if he thought fit to employ one, and in that case they also heard counsel for the Crown. This continued to be the practice down to the passing of the 11 & 12 Vict. c. 78, (1848), which recites, that "it is expedient to provide a better mode than that now in use of deciding any difficult question of law which may arise in criminal trials," &c. By that statute the power of reserving cases was extended to courts of quarter sessions, and the present Court for the Consideration of Crown Cases Reserved was established. By the 3rd section the judgments of the Court are to be delivered in open court, "after hearing counsel or the parties, in case the prosecutor or the person convicted shall think it fit that the case shall be argued." From this it would seem that it was intended that these cases should be argued on both sides—at all events, where the prosecutor or the prisoner thought it desirable. The section seems to leave it discretionary with the prosecutor, viz. the Crown, or the person convicted, to have the case argued at all; but either party having elected to be heard, then, as it appears to us, there was to be no one-sided argument, but the whole matter was to be discussed pro and con. The words are, "after hearing counsel or the *parties*." This view of the construction of the section in question we think confirmed by the following Rule of Court, (1850), "that when any case is intended to be argued by counsel or by the parties, notice thereof be given to the clerk of the court at least two days previously to the sitting of the Court"—a rule which seems to have reference to the above section, and to be in furtherance of its object. But however this may be, the practice has always been, as stated by our correspondent, to decide cases sometimes without hearing any argument at all, no one appearing on either side, and still more frequently when the question has been argued only on one side. We do not impugn the decisions of the learned judges who from time to time have constituted this tribunal, but put our objections to the existing practice upon the fact that they have not that assistance in "deciding any difficult question of law" which they have a right to expect, and the utility of which has been so frequently acknowledged in Westminster Hall, viz. the full argument of a case by counsel. If it is urged in favour of the present practice that a departure from it would entail additional expense upon the country, we answer that the decisions of the questions which come before this Court are of great public importance, not merely affecting the liberty of individuals, but having the effect of establishing certainty in the administration of the criminal law, inasmuch as they are declaratory of what that law really is. That those decisions, therefore, should be arrived at only after ample discussion, and with the greatest possible care, is surely an advantage for which the public might be well content to pay. Besides, the extra costs that would be incurred must be comparatively small, for it should be remembered that in cases where counsel are now instructed for the prosecution the costs are always allowed upon their being certified by the clerk of the court to the proper officer of the court below. It is, therefore, as regards the expense, simply a question between counsel being instructed in all cases, or only, as now, in some.

The suggestion of our correspondent as to the mode by which the desired change in the practice might be effected seems a practicable one, and we apprehend that a Rule of Court would only be necessary for carrying it out. The existing system has prevailed since the establishment of the Court, a period of upwards of nine years, and it may, therefore, seem somewhat late in the day to attack it; but we know that amongst the Profession practising at the criminal bar there has long been a feeling against it, and we have made these remarks in the hope, that as "it's never too late to mend," attention may be drawn to the subject in the proper quarter, and that we shall soon see some efficient step taken in the matter.

THE NEW COURT OF PROBATE, AND FOR DIVORCE AND MATRIMONIAL CAUSES.

Orders by her Majesty in Council have been issued appointing the first day of Hilary Term next as the period for the coming into operation of the new Probate Act, and the Divorce and Matrimonial Causes Act. The Orders are as follow:—

"Whereas by an act passed in the last session of Parliament, intituled 'An Act to amend the Law relating to Probates and Letters of Administration in England,' it is enacted that the said act (except where otherwise specially provided) shall come into operation on such day, not sooner than the 1st January, 1858, as her Majesty shall by Order in Council appoint, provided that such Order shall be made one month at least previously to the day so to be appointed; and whereas it is by the said act further enacted, that the Court of Probate appointed under the provisions of the said act is to hold its ordinary sittings and to have its principal registry at such place or places in London or Middlesex as her Majesty in Council shall from time to time appoint:

"Now, therefore, her Majesty, in pursuance of the said act, and by and with the advice of her Privy Council, is pleased to order and appoint, and it is hereby ordered and appointed, that the said recited act (except where otherwise specially provided) shall come into operation on the 11th January next; and her Majesty, by and with the like advice, is further pleased to order and appoint, and it is hereby ordered and appointed, that the above-mentioned Court of Probate shall hold its ordinary sittings in any of the courts in Westminster Hall which can be conveniently used for the purpose, and shall have its principal registry in the city of London, in the building now used as the public registry of the Prerogative Court of the Archbishop of Canterbury."

"Whereas by an act passed in the last session of Parliament, intituled 'An Act to amend the Law relating to Divorce and Matrimonial Causes in England,' it is enacted that the said act shall come into operation on such day, not sooner than the 1st January, 1858, as her Majesty shall by Order in Council appoint, provided that such Order be made one month at least previously to the day so to be appointed; and whereas it is by the said act further enacted, that the Court for Divorce and Matrimonial Causes, appointed under the provisions of the said act, shall hold its sittings at such place or places in London or Middlesex, or elsewhere, as her Majesty in Council shall from time to time appoint:

"Now, therefore, her Majesty, in pursuance of the said act, and by and with the advice of her Privy Council, is pleased to order and appoint, and it is hereby ordered and appointed, that the said recited act shall come into operation on the 11th January next; and her Majesty, by and with the like advice, is further pleased to order and appoint, and it is hereby ordered and appointed, that the above-mentioned Court for Divorce and Matrimonial Causes shall hold its sittings in any of the courts in Westminster Hall which can be conveniently used for the purpose."

PUBLIC EXAMINATION OF STUDENTS.

Hilary Term, 1858.

The Council of Legal Education have approved of the following rules for the public examination of the students.

The attention of the students is requested to the following rules of the Inns of Court:—

"As an inducement to students to propose themselves for examination, studentships shall be founded of fifty guineas per annum each, to continue for a period of three years, and one such studentship shall be conferred on the most distinguished student at each public examination; and further, the examiners shall select and certify the names of three other students who shall have passed the next best examinations, and the Inns of Court to which such students belong may, if desired, dispense with any terms, not exceeding two, that may remain to be kept by such students previously to their being called to the Bar. Provided that the examiners shall not be obliged to confer or grant any studentship or certificate unless they shall be of opinion that the examination of the students they select has been such as entitles them thereto."

"At every call to the Bar those students who have passed a public examination, and either obtained a studentship or a certificate of honour, shall take rank in seniority over all other students who shall be called on the same day."

"No students shall be eligible to be called to the Bar who shall not either have attended during one whole year the lectures of two of the Readers, or have satisfactorily passed a public examination."

Rules for the Public Examination of Candidates for Honours, or Certificates entitling Students to be called to the Bar.

An examination will be held in next Hilary Term, to which a student of any of the Inns of Court, who is desirous of becoming a candidate for a studentship or honours, or of obtaining a certificate of fitness for being called to the Bar, will be admissible.

Each student proposing to submit himself for examination will be required to enter his name at the treasurer's office of the Inn of Court to which he belongs on or before Thursday, the 31st day of December instant; and he will further be required to state in writing whether his object in offering himself for examination is to compete for a studentship or other honourable distinction, or whether he is merely desirous of obtaining a certificate preliminary to a call to the Bar.

The examination will commence on Thursday, the 7th day of January next, and will be continued on the Friday and Saturday following.

It will take place in the Benchers' Reading-room of Lincoln's-inn; and the doors will be closed ten minutes after the time appointed for the commencement of the examination.

The examination by printed questions will be conducted in the following order:—

Thursday morning, the 7th January, at half-past nine, on Constitutional Law and Legal History; in the afternoon, at half-past one, on Equity.

Friday morning, the 8th January, at half-past nine, on Common Law; in the afternoon, at half-past one, on the Law of Real Property, &c.

Saturday morning, the 9th January, at half-past nine, on Jurisprudence and the Civil Law; in the afternoon, at half-past one, a paper will be given to the students including questions bearing upon all the foregoing subjects of examination.

The oral examination will be conducted in the same order, during the same hours, and on the same subjects, as those already marked out for the examination by printed questions, except that on Saturday afternoon there will be no oral examination.

The oral examination of each student will be conducted apart from the other students; and the character of that examination will vary, according as the student is a candidate for honours or a studentship, or desires simply to obtain a certificate.

The oral examination and printed questions will be founded on the books below mentioned, regard being had, however, to the particular object with a view to which the student presents himself for examination.

In determining the question, whether a student has passed the examination in such a manner as to entitle him to be called to the Bar, the examiners will principally have regard to the general knowledge of law and jurisprudence which he has displayed.

A student may present himself at any number of examinations, until he shall have obtained a certificate.

Any student who shall obtain a certificate may present himself a second time for examination as a candidate for the studentship, but only at one of the three examinations immediately succeeding that at which he shall have obtained such certificate; provided, that if any student so presenting himself shall not succeed in obtaining the studentship, his name shall not appear in the list.

Students who have kept more than eleven terms shall not be admitted to an examination for the studentship.

The Reader on Constitutional Law and Legal History proposes to examine on the following subjects:—

He will expect all who present themselves for examination to possess a general knowledge of the leading events in English History.

He will expect the candidates for honours to be well acquainted with the Chapters in Mr. Hallam's History of the Middle Ages on the English Constitution; with the Chapters in Hallam's Constitutional History which treat of the Reigns of Elizabeth, of the Stuarts, of King William, and Queen Anne; with so much of Rapin and Tindal, and of Belsham or Macaulay, as relates to that period.

He will expect them to be acquainted with the Appendices of Mr. Hume, from the time of Henry the Seventh downwards; with Lord St. Leonards' Preface to Gilbert on Uses; with the Notes of Mr. Butler on Coke's Littleton which give the History of Uses and Trusts, and an Account of the Progress of Subinfeudation. He will expect them also to be acquainted with the most remarkable State Trials from the time of Elizabeth to the Accession of George the First.

The candidates for a pass will, moreover, be required to possess an accurate knowledge of the Reigns of Elizabeth and the Stuart Kings; with the Events of the Revolution, and the Act of Settlement; and with the State Trials during the Reign of Charles the Second.

The Reader on Equity proposes to examine in the following books:—

1. Smith's Manual of Equity Jurisprudence. Mitford on the Pleadings in the Court of Chancery—Introduction; c. 1, ss. 1, 2; c. 2, s. 1; c. 2, s. 2, part 1, (the first three pages); c. 2, s. 2, part 2, (the first two pages); c. 2, s. 2, part 3; c. 3. The Act for the Improvement of the Jurisdiction of Equity, 15 & 16 Vict. c. 86.

2. The Cases and Notes contained in the first volume of White & Tudor's Leading Cases; and the cases of *Bassett* v. *Nosworthy*, *Le Neve* v. *Le Neve*, *Robinson* v. *Pett*, *Penn* v. *Lord Baltimore*, and *Howard* v. *Harris*, in the second volume, with the Notes on those cases.

Candidates for certificates of having passed a satisfactory examination will be expected to be well acquainted with the books mentioned in the first of the above classes.

Candidates for a studentship or honours will be examined in the books mentioned in the two classes.

The Reader on the Law of Real Property proposes to examine in the following books and subjects:—

1. Joshua Williams on the Law of Real Property.
2. On the Alienation of Real Estate by Tenants in Tail, (3 & 4 Will. 4, c. 74).
3. On the Alienation of the Real and Personal Property respectively of Married Women.
4. Hayes on the Common Law, Uses and Trusts.
5. Hayes on Conveyancing, cc. 1—4, 5th ed.

Candidates for honours will be examined in all the foregoing subjects, and candidates for a certificate in those under heads 1, 2, and 3.

The Reader on Jurisprudence and the Civil Law proposes to examine candidates for honours in the following subjects:—

1. The Elements of the Roman Law of Testamentary Inheritance and Legacy—Mackeldey's Systema Juris Romani Hodie Usitati, lib. 4, pp. 601—694 of the Latin edition.
2. The Modification of Rights and Duties by Conditions and Limitations of Time—Lindley's Introduction to the Study of Jurisprudence, pp. 78—98.
3. The Conflict of Laws in regard to Jurisdiction, Remedies, and Judgments—Story's Conflict of Laws, cc. 14 and 15.

Candidates for a certificate will be examined in—

1. Sandars's Institutes of Justinian, book 2, (beginning at the 10th title), and book 4, (beginning at the 6th title).
2. The Conflict of Laws in regard to Jurisdiction and Remedies—Story's Conflict of Laws, c. 14.

The Reader on Common Law proposes to examine in the following books and subjects:—

Candidates for a pass certificate will be expected to be familiar with—

1. The Practice connected with the Writ of Summons; the Entry of Appearance; and the ordinary course of Pleading in an Action.
2. The Elements of the Law of Contracts, so far as set forth in Smith's Lectures on Contracts, (by Malcolm), omitting sects. 3, 4, 6, and 7.
3. The Elements of Criminal Law, as set forth and illustrated in Broom's Commentaries, book 4.

Candidates for the studentship or honours will be examined in the above books and subjects, and also in—

4. The Law of Bailments, so far as explained in Story on Bailments, 5th ed., cc. 1 and 6; and *Coggs* v. *Bernard*, (1 Smith's L. C. 147, with the note thereto, 4th ed.)
5. The following cases:—
    (1). Law of Contracts—*Croockewit* v. *Fletcher*, (1 H. & Norm. 893); *Hochster* v. *De la Tour*, (2 El. & Bl. 678); and *Morley* v. *Attenborough*, (3 Exch. 500).
    (2). Law of Torts—*Degg* v. *The Midland Railway Company*, (1 H. & Norm. 773); *Southcote* v. *Stanley*, (Id. 247); and *Humphries* v. *Brogden*, (12 Q. B. 739).

By order of the Council,
Biggs Andrews, Chairman pro tem.
Council Chamber, Lincoln's Inn,
December 2, 1857.

To be granted, unless an Appeal be duly entered.

John D. Gordon, Eldon-street, Finsbury, pianoforte manufacturer.—*Wm. Papineau*, Harrow Bridge, Stratford, Essex, manufacturing chemist.—*Wm. Semmons*, Redruth, Cornwall, draper.—*Henry Williams*, Swansea, Glamorganshire, timber merchant.—*John Ince*, Eaton-terrace, Pimlico, surgeon.—*G. Clay*, Nicholas-lane, Lombard-street, City, bill broker.—*Wm. Rees*, Glastonbury, Somersetshire, bookseller.—*Thomas H. Cogdon*, Sunderland, Durham, plumber.

Petition Annulled.

Thos. Clapham, Headingley, Leeds, Yorkshire, nurseryman.

Tuesday, *Dec.* 8.

Bankrupts.

THOMAS BULL, St. Mary Axe, City, vinegar merchant, (trading under the name and style of Thomas Bull & Co.), Dec. 19 at 12, and Jan. 22 at half-past 11, London: Off. Ass. Whitmore; Sols. J. & T. Gole, 49, Lime-street.—Pet. f. Oct. 31.

WILLIAM BROMLEY FILLER, Lime-street, City, merchant, Dec. 21 and Jan. 25 at 1, London: Off. Ass. Pennell; Sols. Martin & Co., Mincing-lane.—Pet. f. Aug. 4.

WILLIAM FOLLETT, Bognor, Sussex, bookseller, Dec. 17 and Jan. 21 at 12, London: Off. Ass. Johnson; Sols. Rogerson & Ford, 31, Lincoln's-inn-fields.—Pet. f. Nov. 30.

JOHN BLACKWELL, Portsmouth, upholsterer, Dec. 17 at 1, and Jan. 25 at 11, London: Off. Ass. Pennell; Sols. Langley & Gibbon, 32, Great James-street, Bedford-row.—Pet. f. Nov. 25.

JEREMIAH HILL, Quidhampton, near Salisbury, Wiltshire, railway contractor, Dec. 17 at 12, and Jan. 25 at 11, London: Off. Ass. Nicholson; Sols. Hodding & Co., Salisbury; Clarke & Morice, 29, Coleman-street.—Pet. f. Dec. 4.

SAMUEL FARNAN, Mincing-lane, indigo broker, Dec. 18 at half-past 2, and Jan. 19 at 12, London: Off. Ass. Lee; Sols. Martin & Co., Mincing-lane.—Pet. f. Dec. 4.

JOHN WRIGHT, Barbican, tobacco manufacturer, Dec. 22 at half-past 11, and Jan. 19 at 1, London: Off. Ass. Graham; Sols. Sole & Co., 68, Aldermanbury, London.—Pet. f. Dec. 7.

ROBERT HUNTLEY, Hove, near Brighton, Sussex, shipowner, Dec. 22 and Jan. 19 at 12, London: Off. Ass. Stansfeld; Sols. Nicholls & Doyle, 2, Verulam-buildings, Gray's-inn.—Pet. f. Nov. 25.

WILLIAM SMITH and JOHN NEWEY, Smethwick, Staffordshire, soap manufacturers, Dec. 21 and Jan. 11 at half-past 10, Birmingham: Off. Ass. Whitmore; Sol. Holden, Birmingham.—Pet. d. Dec. 3.

SAMUEL WELTON JOHNSON, Birmingham, printer, Dec. 18 and Jan. 14 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham.—Pet. d. Dec. 4.

WILLIAM GRUNDY, Birmingham, laceman, Dec. 21 and Jan. 11 at half-past 10, Birmingham: Off. Ass. Kinnear; Sols. James & Knight, Birmingham.—Pet. d. Dec. 5.

JOHN SHOARD, Bristol, and Keynsham, Somersetshire, miller, Dec. 21 and Jan. 18 at 11, Bristol: Off. Ass. Miller; Sols. Brittan & Son, Bristol.—Pet. f. Dec. 4.

WILLIAM SHAW, Sheffield, Yorkshire, oil dealer, Dec. 19 and Jan. 30 at 10, Sheffield: Off. Ass. Brewin; Sols. Chambers & Waterhouse, Sheffield.—Pet. d. Dec. 5.

ANDREW OGLE, JAMES ROBINSON, (in the petition wrongly called WILLIAM ROBINSON), and WILLIAM OGLE, Preston, Lancashire, engineers, (trading under the firm of A. Ogle & Co.), Dec. 21 and Jan. 21 at 12, Manchester: Off. Ass. Hernaman; Sol. Rowley, Manchester.—Pet. f. Nov. 14.

HUGH PICKERING, Burnley, Lancashire, brush maker, Dec. 18 and Jan. 21 at 11, Manchester: Off. Ass. Hernaman; Sols. Sale & Co., Manchester; Sampson & Co., 31, New Broad-street, London.—Pet. f. Nov. 26.

HUGH PICKERING, JOHN PICKERING, RICHARD CATON PICKERING, and JOHN WILSON PICKERING, Burnley, Lancashire, cotton spinners, (trading under the firm of Pickering, Brothers), Dec. 18 and Jan. 22 at 12, Manchester: Off. Ass. Hernaman; Sols. Alcock & Holmes, Burnley; Sale & Co., Manchester.—Pet. f. Nov. 27.

MILES LAMBERT, Liverpool, tailor, Dec. 18 and Jan. 14 at 11, Liverpool: Off. Ass. Turner; Sol. Cotton, Liverpool.—Pet. f. Dec. 4.

THOMAS ROSS, West Hartlepool, Durham, sailmaker, (carrying on business at West Hartlepool with Francis Walters), Dec. 18 at half-past 11, and Jan. 21 at 1, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Ingledew & Daggett, Newcastle; Williamson & Co., 10, Great James-street, Bedford-row, London.—Pet. d. Dec. 3.

Meetings.

John Bywater, Nottingham, tailor, Dec. 22 at half-past 10, Nottingham, ch. ass.—*James M'Cartney*, South Shields, Durham, provision merchant, Dec. 22 at 11, Newcastle-upon-Tyne, last ex. and aud. ac.—*Frederick Bracher*, Old Jewry, City, tailor, Dec. 21 at 1, London, aud. ac.—*Lambert P. Mölledonn*, Mark-lane, City, manure dealer, Dec. 21 at 1, London, aud. ac.—*James Wade*, Chilworth, near Guildford, Surrey, paper maker, Dec. 21 at 1, London, aud. ac.—*James Steedman*, Albany-street, Regent's-park, Middlesex, pianoforte manufacturer, Dec. 24 at 11, London, aud. ac.—*Charles Reed*, Upper Whitecross-street, Middlesex, draper, Dec. 29 at 11, London, aud. ac. and div.—*Charles Edward Back*, Tottenham-court-road, Middlesex, grocer, Dec. 24 at half-past 12, London, aud. ac.—*John Rolfe* the younger, Leadenhall-street, City, tailor, Dec. 31 at half-past 1, London, aud. ac.—*Henry Sibley*, Birchin-lane, Cornhill, City, mining agent, Dec. 17 at half-past 12, London, aud. ac.—*William Carr*, Bishopsgate-street Without, Middlesex, and Walworth-road, Surrey, cheesemonger, Dec. 29 at half-past 12, London, aud. ac.—*John Youle*, Sheffield, Yorkshire, wine merchant, Dec. 19 at 10, Sheffield, aud. ac.—*Ebenezer Brookes*, Sheffield, Yorkshire, spring-knife manufacturer, Dec. 19 at 10, Sheffield, aud. ac.—*Henry Joseph Smith*, Sheffield, Yorkshire, coal master, Dec. 19 at 10, Sheffield, aud. ac.—*Robert Noble*, Leadenhall-street, City, tailor, Dec. 29 at 1, London, div.—*Benjamin Hayden*, Bermondsey-street, Surrey, lineadraper, Dec. 31 at 12, London, div.—*George Fossey* and *James Steel*, Norway-wharf, Millwall, Middlesex, and Trinity-street, Rotherhithe, Surrey, timber merchants, Dec. 28 at 12, London, fin. div. sep. est. of *James Steel*.—*Richard Galston Wollaston*, Bishop's Castle, Shropshire, surgeon, Jan. 14 at half-past 11, Birmingham, div.—*Richard Palmer*, Brighton, Sussex, plumber, Dec. 24 at half-past 11, London, aud. ac.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Abraham Scott, Colchester, Essex, carrier, Jan. 1 at 11, London.—*Benjamin Hayden*, Bermondsey-street, Surrey, linendraper, Dec. 31 at 12, London.—*Herbert Bennett*, Chester, draper, Dec. 30 at 12, Manchester.—*Thomas Wych*, Macclesfield, Cheshire, innkeeper, Jan. 7 at 1, Manchester.—*Richard R. Bealey* and *David Bealey*, Manchester, shirt manufacturers, Jan. 8 at 1, Manchester.—*Samuel Bayley* and *Thomas Russell*, Macclesfield, Cheshire, silk dyers, Jan. 7 at 1, Manchester.—*Philip Jones*, Newtown, Montgomeryshire, flannel manufacturer, Dec. 31 at 12, Liverpool.—*John Peacock*, Manchester, starch manufacturer, Dec. 30 at 1, Manchester.—*Samuel Emery*, Aston, juxta Birmingham, roller of metals, Jan. 15 at 10, Birmingham.—*Edwin Sunderland* and *William Sunderland*, Oldbury, Worcestershire, bill brokers, Jan. 15 at 10, Birmingham.—*John Wakefield*, Ilkeston, Derbyshire, baker, Jan. 12 at half-past 10, Nottingham.—*Wm. Congreve*, Spalding, Lincolnshire, corn merchant, Jan. 19 at half-past 10, Nottingham.—*Matthew Townsend*, Leicester, manufacturer of hosiery, Jan. 12 at half-past 10, Nottingham.—*William Dobson* and *John Thomas Robson*, Derby, silk throwsters, Jan. 12 at half-past 10, Nottingham.—*James Newman*, Long Sutton, Lincolnshire, bookseller, Jan. 12 at half-past 10, Nottingham.

To be granted, unless an Appeal be duly entered.

Morris Moss, Somers-place, New-road, St. Pancras, coach broker.—*Robert Wilby*, Prince of Wales-road, Camden-town, licensed victualler.—*Edward Petter* and *William Arundell Oatey*, Barnstaple, Devonshire, ironfounders.—*Christopher Fairlamb*, Newcastle-upon-Tyne, cheesemonger.—*J. Stampa*, Handsworth, Staffordshire, paper maker.

Petition Annulled.

Oliver Morgan Lilly and *Elizabeth Eleanor M'Dowall*, Bristol, timber merchants.

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It will be in the recollection of the Proprietors that at two Extraordinary General Meetings, held on the 1st and 28th January last, the period for holding the Annual Meetings was altered from March to November, in order that *earlier* publicity might be given to the state of the Society's affairs at the end of June, that being the period fixed by the Deed for the termination of each financial year. In consequence of this alteration no Meeting took place in March last, and it is therefore now the duty of the Directors to lay before this Meeting a statement of the transactions of the Society for the *two* years ending the 30th June, 1857.

The number of New Policies issued within that period was 1097;
The amount of Assurances granted was 605,300*l*.; and
The New Premiums arising therefrom amount to 20,729*l*. per annum.
The Assurance Fund, notwithstanding the payment in cash of 65,384*l*. as Bonus since the declaration in January, has increased during the two years by no less a sum than 55,676*l*.

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After the full and comprehensive statements made at the Extraordinary Meeting in January last, when the SIXTH BONUS was declared, the Directors feel that there is little further now to communicate; but they cannot refrain from mentioning that the Bonus then divided, which averaged 46*l*. per cent. in Reversion, and 27*l*. per cent. in cash, on the Premiums received since 1851, has given general satisfaction, and has tended materially to sustain and advance the high estimation in which the Society has been so long held by the Public.

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POLLOCK'S PRACTICE OF THE COUNTY COURTS

Lately published, in 1 vol. royal 12mo., price 1*l.* cloth boards,

THE PRACTICE of the COUNTY COURTS. In Two Parts. With an Appendix, containing the Statutes, Rules and Orders, and Forms. The Third Edition. By C. E. POLLOCK, Esq., and H. NICOL, Esq., Barristers at Law. This Edition contains Chapters upon Replevin, the Bills of Exchange Act, and other new jurisdictions given by recent Statutes. The whole is carefully and copiously indexed.

H. Sweet, 3, Chancery-lane, Fleet-street.

GAZETTES.—Friday, *Dec.* 11.

Bankrupts.

THOMAS TYRRELL, Tunbridge, Kent, factor, Dec. 22 at 11, and Jan. 21 at 1, London: Off. Ass. Johnson; Sols. Sole & Co., Aldermanbury.—Pet. f. Dec. 10.

GEORGE HAMIT, Haddenham, Isle of Ely, Cambridgeshire, machine maker, Jan. 6 at 12, and Jan. 19 at half-past 12, London: Off. Ass. Stansfeld; Sol. Rennolls, 1, Lincoln's-inn-fields.—Pet. f. Dec. 9.

THOMAS WOLFE, Woolwich, Kent, corn chandler, Dec. 23 at 11, and Jan. 27 at 12, London: Off. Ass. Pennell; Sol. Capreol, 4, Gray's-inn-square, London.—Pet. f. Dec. 8.

WILLIAM BAKER and LUCY SMITH BAKER, Church-street, Camberwell, milliners, (trading under the style or firm of W. & L. Baker), Dec. 23 at 12, and Jan. 27 at 11, London: Off. Ass. Nicholson; Sols. Depree & Austen, 23, Lawrence-lane, Cheapside.—Pet. f. Dec. 9.

EDWARD HORTON, Well-street, South Hackney, grocer, Dec. 22 at half-past 2, and Jan. 19 at 2, London: Off. Ass. Lee; Sol. Murrough, 5, New-inn.—Pet. f. Dec. 9.

CHARLES MIDDLETON, Upper North-street, Poplar, builder, Dec. 22 at 2, and Jan. 19 at 1, London: Off. Ass. Lee; Sol. Stubbs, 26, Moorgate-street.—Pet. f. Dec. 9.

EDWARD JONES, Welshfrankton, Shropshire, boat builder, Dec. 24 and Jan. 16 at half-past 11, Birmingham: Off. Ass. Kinnear; Sols. Wace, Ellesmere; James & Knight, Birmingham.—Pet. d. Dec. 10.

RUPERT ALLPORT, Millwick, Staffordshire, butcher, Dec. 23 and Jan. 13 at half-past 10, Birmingham: Off. Ass. Kinnear; Sols. Bowen, Stafford; E. & H. Wright, Birmingham.—Pet. d. Dec. 8.

JOHN VIGRASS, Walsall, Staffordshire, timber merchant, Dec. 23 and Jan. 13 at half-past 10, Birmingham: Off. Ass. Kinnear; Sols. East, Birmingham; Harris, Bristol. —Pet. d. Dec. 1.

ELIZABETH SWINNERTON, Stoke-upon-Trent, Staffordshire, victualler, Dec. 24 and Jan. 16 at half-past 11, Birmingham: Off. Ass. Whitmore; Sol. Smith, Birmingham.—Pet. d. Dec. 9.

JAMES LAW, Halifax, Yorkshire, shoemaker, Dec. 31 and Jan. 29 at 11, Leeds: Off. Ass. Young; Sols. Sutcliffe, Sowerby-bridge; Bond & Barwick, Leeds.—Pet. d. and f. Dec. 8.

DAVID ROBERTS, Halifax, Yorkshire, worsted spinner, Dec. 31 and Jan. 22 at 11, Leeds: Off. Ass. Young; Sols. Sutcliffe, Sowerby-bridge; Bond & Barwick, Leeds.—Pet. d. and f. Dec. 7.

GEORGE CAMM, Sheffield, Yorkshire, grocer, Jan. 2 and 30 at 10, Sheffield: Off. Ass. Brewin; Sol. Broadbent, Sheffield.—Pet. d. and f. Dec. 7.

GEORGE MORTON, Hope, Derbyshire, miller, Jan. 2 and 30 at 10, Sheffield: Off. Ass. Brewin; Sol. Broadbent, Sheffield.—Pet. d. and f. Dec. 10.

THOMAS MILLINGTON PRITCHARD and THOMAS HIGGINSON, Liverpool, rice merchants, (trading under the firm of Pritchard, Higginson, & Co.), Dec. 29 at 11, and Jan. 19 at 12, Liverpool: Off. Ass. Morgan; Sols. Morris & Son, Liverpool.—Pet. f. Dec. 10.

THOMAS EDWARD PICKFORD, Manchester, commission agent, Dec. 23 and Jan. 25 at 12, Manchester: Off. Ass. Pott; Sols. Sale & Co., Manchester.—Pet. f. Dec. 10.

THOMAS ROBINSON, Manchester, ironmonger, Dec. 21 and Jan. 20 at 12, Manchester: Off. Ass. Fraser; Sols. Boote & Jellicorse, Manchester.—Pet. f. Dec. 8.

SAMUEL RHODES and JOHN ARMSTRONG, Tintwistle, Cheshire, cotton manufacturers, Dec. 23 and Jan. 18 at 12, Manchester: Off. Ass. Pott; Sols. Slater & Myers, Manchester.—Pet. f. Dec. 3.

Meetings.

Thomas Arnold, Shrewsbury, veterinary surgeon, Dec. 24 at half-past 11, Birmingham, ch. ass.—*Thomas Gratwick*, Camberwell-green, Surrey, cheesemonger, Dec. 23 at 12, London, last ex.—*David Mandelbaum*, Minories, City, importer of foreign goods, Dec. 23 at 2, London, aud. ac.—*Michael Banes*, Watling-street, City, warehouseman, Dec. 22 at 12, London, aud. ac.—*William Buddle*, Delamere-terrace, Paddington, builder, Dec. 22 at 2, London, aud. ac.—*Edward Huxley*, Old Cavendish-street, Middlesex, surgical-bandage maker, Dec. 22 at 1, London, aud. ac.—*Thomas Blaber Daniell*, High-street, Poplar, Middlesex, ironmonger, Dec. 22 at 12, London, aud. ac.—*Benjamin Hayden*, Bermondsey-street, Surrey, linendraper, Dec. 31 at 12, London, aud. ac.—*Joseph Halford*, Cheltenham, Gloucestershire, ironmonger, Jan. 7 at 11, Bristol, aud. ac.—*William Smith*, Bath, Somersetshire, hotel keeper, Jan. 7 at 11, Bristol, aud. ac.—*Edward Rogers*, Oswestry, Shropshire, draper, Dec. 23 at half-past 10, Birmingham, aud. ac.—*Sir Charles Fox* and *John Henderson*, Smethwick, Staffordshire; New-street, Spring-gardens, Westminster; and Fore-street, Limehouse, Middlesex, engineers, Dec. 23 at 10, Birmingham, aud. ac. joint est., and aud. ac. sep. est. of *Sir Charles Fox*.—*Joseph Beevers*, Leeds, Yorkshire, engraver, Jan. 12 at 11, Leeds, aud. ac.—*James John Stephenson Outtrim*, Oakley-terrace, Old Kent-road, Surrey, ladies' outfitter and baby-linen warehouseman, Jan. 2 at 11, London, div.—*William Hackett*, Oxford, gas and water engineer, Jan. 2 at half-past 11, London, div.—*Friedrich Ernst Daniel Hast*, Aldermanbury, City, merchant, Jan. 2 at half-past 11, London, div.—*Cornelius Davies* and *Frederick Norman*, Great Scotland-yard, Westminster, cement and lime merchants, Jan. 1 at half-past 11, London, div. joint est. —*Thomas Stoyles Sansbury*, Mark-lane and Seething-lane, City, dealer in hemp, Jan. 1 at half-past 11, London, div.—*George Young*, Old-street-road, Middlesex, victualler, Jan. 1 at 1, London, div.—*Robert Martin* and *David Wardlaw Scott*, Great St. Helens, City, merchants, Jan. 1 at 12, London, div. joint est.—*John Laker* the elder, Maidstone, Kent, builder, Jan. 1 at 11, London, div.—*William Ford Wallington*, Oxford, tailor, Jan. 1 at 11, London, div.—*John Hinkley* the younger, Brentwood, Essex, corn dealer, Jan. 1 at half-past 12, London, div.—*William Dobson* and *John Thomas Robson*, Derby, silk throwsters, Jan. 19 at half-past 10, Nottingham, aud. ac. and div.—*William Elgood*, Leicester, merchant, Jan. 19 at half-past 10, Nottingham, div. —*William Williams*, *William Williams* the younger, and *Thomas Robert Williams*, Newport, Monmouthshire, bankers, Jan. 7 at 11, Bristol, fin. div. sep. ests. of *W. Williams* and *W. Williams* the younger.—*Samuel Dalton*, *Daniel Dalton*, and *Alfred Dalton*, Chester, ironmasters, Jan. 4 at 11, Liverpool, div.

Certificates.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Thomas Sommerville, Abbey Nursery, Garden-road, St. John's-wood, Middlesex, nurseryman, Jan. 5 at 1, London. —*Richard Elliott*, Wellington-road, Kentish-town, licensed victualler, Jan. 2 at 11, London.—*William John Rodda*, Albion-villas, Tottenham-road, Kingsland, Middlesex, builder, Jan. 2 at 12, London.—*Abraham Milnes* and *James Milnes* the younger, Oldham, Lancashire, cotton spinners, Jan. 4 at 12, Manchester.

To be granted, unless an Appeal be duly entered.

Joseph Wright, Birmingham, and *John Salisbury*, Ashby-de-la-Zouch, Leicestershire, and Burton-upon-Trent, Staffordshire, ironfounders.—*William Glover*, Liverpool, innkeeper.—*William Tent*, Royal Exchange, City, hosier.—*George Beaven*, Chippenham, Wiltshire, cordwainer.—*Benjamin Wm. Gabriel*, Stockport, Cheshire, cotton spinner.—*Joseph Beevers*, Leeds, Yorkshire, engraver.—*Charles Philip Burnett*, Lincoln, tailor. —*Grace Simonite*, Birmingham, iron-plate worker.—*Charles Brown*, Birmingham, shoe dealer.

Partnership Dissolved.

Thomas Lancelot Reed and *William Reed*, Downham Market, Norfolk, attornies-at-law and solicitors.

Scotch Sequestrations.

James Drew & Co., Glasgow, drysalters.—*John Sinclair*, Glasgow, merchant.—*Joseph Ewing*, Glasgow, manufacturer. —*John M'Lean*, Glasgow, merchant.—*Wm. R. Kidd*, Shore, Alloa, tavern keeper.—*Wm. Baillie*, Alloa, bootmaker.—*Wm. M'Ewan*, Edinburgh, writer.—*James Macdonald*, Glasgow, furrier.—*Ewen Macmillan*, Inverness, agent.—*John Stewart*, Glasgow, provision dealer.—*George Walter Crawford*, Edinburgh, writer.—*James Stark*, Pollockshaws, grocer.—*John Dott*, Kingussie, merchant.—*Robert Stewart & Son*, Glasgow, merchants.—*William Bennet*, Perth, flesher.—*James Watson*, Glasgow, house painter.—*Duncan Weir & Co.*,

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THE JURIST.

LONDON, DECEMBER 19, 1857.

THERE are few rules established by the decisions of our Courts which are calculated to strike a student of law with more surprise than the well-known one, that a voluntary settlement of real estate is liable to be defeated by a subsequent sale for value by the settlor. This surprise is hardly abated when he learns that the rule rests upon an enactment, (27 Eliz. c. 4, s. 2), "that all and every conveyance, grant, charge, lease, estate, incumbrance, and limitation of use or uses of, in, or out of any lands, tenements, or other hereditaments whatsoever, had or made any time heretofore sithence the beginning of the Queen's Majesty's reign that now is, or at any time hereafter to be had or made, *for the intent and of purpose to defraud and deceive* such person or persons, bodies politic or corporate, as have purchased, or shall afterwards purchase, in fee-simple, fee-tail, for life, lives, or years, the same lands, tenements, and hereditaments, or any part or parcel thereof, so formerly conveyed, granted, leased, charged, incumbered, or limited in use, or to defraud and deceive such as have or shall purchase any rent, profit, or commodity in or out of the same, or any part thereof, shall be deemed and taken, only as against that person and persons, &c. which have purchased, or shall hereafter purchase, for money or other good consideration, the same lands, tenements, or hereditaments, or any part or parcel thereof, or any rent, profit, or commodity in or out of the same, to be utterly void, frustrate, and of none effect." It will naturally be asked, "Does the law say that a conveyance is fraudulent merely because it is made without valuable consideration? Is it not an encouragement to fraud to say, that if a man makes a voluntary settlement of land, he may afterwards sell the land, so as to give a good title to a purchaser, though quite aware of the settlement; thus gaining an opportunity of receiving the value of the land, and absconding with the proceeds?"

Yet the rule has its foundation in reason, though we think it has been carried too far. "The principle on which voluntary conveyances have been held uniformly to be fraudulent and void as against subsequent purchasers," says Lord Campbell, C. J., in *Doe* v. *Rusham*, (16 Jur., part 1, p. 359), "appears to be, that by selling the property for a valuable consideration, the seller so entirely repudiates the former voluntary conveyance, and shews his intention to sell, as that it shall be taken conclusively against him, and the person to whom he conveyed, that such intention existed when he made the conveyance, and that it was made in order to defeat the purchaser." The reasoning is, perhaps, somewhat technical, but we think that little exception can be taken to it, and that the rule might well have been treated as founded on good grounds had it been confined to cases in which the purchaser is ignorant of the prior voluntary conveyance.

If voluntary conveyances were to be held good as against purchasers, without notice of them, a wide door would be opened for fraud, as it is generally easy for a man who has made a voluntary settlement to suppress it, and hold himself out to the world as absolute owner. A purchaser would in such a case be defrauded by means of the conveyance; and as a remedial statute is to be construed largely, we think that there is no objection to holding, as against a settlor who thus commits a fraud, and the volunteers claiming under him, that the fraud is to be treated as existing at the time of the execution of the settlement which is afterwards made the instrument of the fraud. It is difficult, however, to see how the rule came to be extended to the case of a purchaser who had notice of the settlement; for it can hardly be said that he is defrauded, any more than a purchaser who buys subject to a beneficial lease, of which he has full notice. The principle certainly seems to us to have been carried beyond the legitimate bounds of its application.

It seems questionable whether the case of *Barton* v. *Vanheythuysen* (11 Hare, 126) does not carry the rule to a still more dangerous extent. It was there held, that a conveyance for value of "all and singular the real estate" of the grantor was sufficient to defeat a prior voluntary settlement. The circumstances of the case were rather peculiar, involving no small amount of actual fraud, and the decision may, to a great extent, have turned upon them; but it has been cited in practice as establishing, and it may fairly be contended that it does lay down, a general rule to the above effect. We propose briefly to consider whether such a rule can be considered to be law.

It is true, that the statute, as being a remedial act, has been construed largely; still we must not forget that it is a settled rule of law, as well as of Christian ethics, that fraud is not lightly to be presumed. Now, in all the cases to which the statute indisputably does apply, there exists either fraud or something much allied to it. A man has no moral right to settle an estate, and then sell it in fee, in derogation of his own grant. Though the statute gives effect to the sale, still the proceeding is regarded as wrong, and the vendor cannot compel specific performance against the purchaser. Where a settlor sells to a purchaser without notice, the case in our opinion comes properly, as we have already observed, within the statute—a fraud on the purchaser is attempted. Where the vendor sells to a purchaser with notice he is doing a wrong; and though, as we have said, we do not see that he is committing a fraud on the purchaser, still he is guilty of such conduct, that the Courts, though they may have erred in referring the fraud to the first transaction, have not imputed fraud to the vendor without any ground having been laid for their so doing. But where a man, having settled part of his real property, makes a conveyance for value of "all my estate," from what, in the absence of special circumstances, is fraud to be presumed? What do the words "all his estate" mean? It can, we think, hardly be contended, that they ought to receive a more extended signification than "all lands, tenements, &c. of or to which he is seised, possessed, or entitled for any estate or interest whatsoever, at law or in equity, whether in possession, reversion, remainder, or expectancy, or over which he has any disposing power which he can without the assent of any other person exercise for his own benefit." These are (apart from some slight variations used to make them suitable to the case of a conveyance) the words used in stat. 1 & 2 Vict. c. 110, s. 13; and in the case of *Beavan* v. *Lord Oxford* (6 De G., Mac., & G. 507) it was decided that the words of that statute did not apply to land of which a voluntary settlement had been made; and that a judgment, which according to the act was to be a charge on the property so described, was inoperative as against such voluntary settlement. We think that case thoroughly consistent with reason. When a man has conveyed away an estate, though without consideration, it is no longer his; and the fact that he can defeat that conveyance by a subsequent conveyance for value does not make the estate any more his. The statute was passed for the purchaser's benefit, not for the vendor's, and operates so far only as is necessary to secure the purchaser. If the grantor, after the voluntary grant, mortgages the estate, not he, but the voluntary grantee, is entitled to the equity of redemption; and though the statute enables the grantor to defeat his grant, it does not enable him to make the estate his own. We think, therefore, that the words "all his estate" are, both on principle and authority, inapplicable to the settled estate, and cannot, without more, shew any intention to deal with it; and if so, the conveying party must, we submit, be considered as clear of fraud, and as intending to deal only with what is properly his, and which he can deal with without a breach of any obligation.

The Vice-Chancellor says, (11 Hare, 130), with reference to the argument that the settled estate was not intended to be dealt with, "The fallacy in this argument consists in assuming that the first objection has been sustained, and in regarding the H. estate as not in truth the property of V.," (the settlor), "which, as between himself and a subsequent purchaser, I have held it to have been." We cannot, notwithstanding the high respect we feel for the Vice-Chancellor's opinion, regard this answer as satisfactory, unless it turned on something special in the circumstances of the case, which appear to be meagrely reported. By virtue of the statute of Elizabeth, the settlor may in some sense be considered the owner of the settled estate, as regards a purchaser of *that estate* from him; but the question is, whether the purchaser ever became a purchaser of that estate; and this brings us back to the question, whether the expression "his estate" can be taken to refer to an estate of which the grantor had previously made a voluntary settlement. It may also be considered to detract from the weight due to the Vice-Chancellor's judgment, that he appears to have been much influenced by two cases, which, after the observations made upon them in the more recent case of *Beavan* v. *Lord Oxford*, (6 De G., Mac., & G. 519), and the decision in that case, can hardly be treated as law.

◆

THE question of how far, and when, notice to a sheriff's officer is notice to the sheriff, is one which frequently recurs in practice, and yet has not been treated, indeed is scarcely to be found touched upon, either in the books of evidence or of practice. It may possibly, therefore, be of service to some of our readers if we devote a few lines to bringing together the leading points of the subject. Generally it is the known rule, on the one hand, that notice to the principal is notice to all his agents, if there be time to communicate that notice to the agents before the event which raises the question has happened; (*Mayhew* v. *Eames*, 3 B. & Cr. 631, recognised in *Willis* v. *The Bank of England*, 4 Ad. & El. 21); and on the other hand, that notice to the agent is notice to the principal, (per Ashhurst, J., 1 T. R. 16), provided that the notice be given in the same transaction in which the agent is at the time concerned for his employer. But on this proviso there has been ingrafted a material qualification, for it has been laid down, that although, in general, the notice, to bind the principal, must be one given in the course of the identical transaction, yet that if it have been given in a transaction previous to, but still so near to, the one in question as to raise the presumption that the agent remembers the notice, that is sufficient. (*Majoribanks* v. *Hovenden*, Dru. Ir. Rep. 18, per Sugden, C.; *Hargreaves* v. *Rothwell*, 1 Kee. 154). But notice to the agent before the agency has begun, or after it has terminated, will not ordinarily affect the principal. (*Hiern* v. *Mill*, 13 Ves. 120). Also, constructive notice to the agent operates to bind the principal equally with direct or positive notice to the former. (*Toulmin* v. *Steere*, 3 Mer. 210). Having premised these general grounds, let us see how the principles contained in them have been applied to cases of sheriffs' officers. One of the cases which is of most frequent occurrence with reference to this matter is that of seizing under a fi. fa., without leaving sufficient to pay the year's rent then due. How do you prove the knowledge of the sheriff of this fact on the trial of an action against him for the irregular seizure? The answer is, it is sufficient to shew that the person who takes the goods away was told so; and that is so without its being shewn or orally admitted that such person was employed by the sheriff—that is, without the warrant being produced, or any declaration of the person seizing being proved, to establish the connexion of officer and sheriff between him and the defendant. This was held on a plea traversing the allegation of notice to the defendant in the declaration. (*Reed* v. *Thoytt*, 6 M. & W. 410). It must be observed, however, that there was this further proof of the connexion, that it was admitted on the record that the defendant, as sheriff, seized the goods in question, it not appearing that there was depending any other execution than the one deposed to. Again: in an action at the suit of an execution creditor against a sheriff for seizing the debtor's goods under the fi. fa., but falsely returning nulla bona, where the case for the plaintiff was, that at the time of the delivery of the writ to the sheriff the execution debtor was possessed of property far exceeding in value the amount indorsed on the plaintiff's writ; and the defendant contended that at the delivery of that writ there was already in his hands a writ for a larger sum at the suit of one Bebb, which rendered it impossible for him to seize as by virtue of the plaintiff's writ; and some evidence was given of circumstances tending to shew that the party seizing (who, it was not disputed, was the officer of the sheriff) had notice that Bebb's writ was founded on a fraudulent judgment; and evidence was also received to impeach this judgment itself for the fraud—this evidence, it was argued, was inadmissible without first establishing the fact of the sheriff's notice of the fraud. The Court held, however, that there was evidence of at least sufficient notice to put the sheriff on inquiry whether such fraud as alleged had been committed; for "notice to a sheriff's officer to whom the execution of the plaintiff's writ was committed, after the delivery of the writ to him, was notice to the sheriff himself." (*Imray* v. *Magnay*, 11 M. & W. 273. See, however, some doubts thrown on this decision, *Remmett* v. *Lawrence*, 14 Jur., part 1, p. 1067). So in the following case:—A writ of ca. sa. was lodged with A., a sheriff's officer, with instructions from the plaintiff's attornies to procure a warrant and execute it; but some days after the plaintiff's attornies sent A. a written notice not to execute, and that they withdrew the writ, which nevertheless did not appear to have been taken from the sheriff's office. Afterwards, the defendant not having performed an undertaking on which the writ was agreed to be withdrawn, the plaintiff lodged a writ of habeas corpus ad satisfaciendum with the keeper of the Queen's Prison, (where the defendant was in custody on another writ at the suit of a different plaintiff), and the defendant was accordingly brought up and charged in execution on this writ; but on a motion to set aside this writ of habeas corpus, and discharge the defendant as to the plaintiff's execution, it was held that the above-mentioned notice to the officer was notice to the sheriff. (*Howard* v. *Cauty*, 8 Jur., part 1, p. 984). In a later case, which did not very materially differ from *Imray* v. *Magnay* in its circumstances, the Court of Exchequer confirmed that case, and held, the plaintiff having given notice to the sheriff's officer that a judgment, and execution thereon, levied previously to his, were fraudulent, that there was sufficient notice of the fraud to oblige the sheriff to inquire into the question of fraud at his peril. (*Christopherson* v. *Burton*, 3 Exch. 162). It may perhaps, therefore, be laid down as the rule, subject to the application of the principles first set out, that notice to the sheriff's officer is notice to the sheriff. On the other hand, (probably with the same restrictions), notice to the sheriff is notice to the officer. (*Belshaw* v. *Marshall*, 4 B. & Ad. 339).

FORMS OF BILLS OF COSTS IN ACTIONS UNDER 20*l.*

COMMON PLEAS.

When allocaturs on judgments by default in actions under 20*l.* are required, it is requested that the bills of costs be made out in the following manner:—

Town.	£	*s.*	*d.*
Costs of judgment	2	14	0
Attending judge for order and paid	0	5	4
Attending Master and paid	0	5	4
Further bill of costs	0	2	0
	£3	6	8

Country.	£	*s.*	*d.*
Costs of judgment	3	2	0
Attending judge for order and paid	0	5	4
Attending Master for allocatur and paid	0	5	4
Further bill of costs	0	2	0
	£3	14	8

EXCHEQUER OF PLEAS.

In cases of judgment for want of appearance in actions under 20*l.*, where the judge certifies for costs, it is requested that bills be brought to the office in the following form:—

Town.	£	*s.*	*d.*
Usual costs	2	14	0
Attending the judge and paid for order	0	5	4
Bill of costs	0	2	0
Attending to tax	0	3	4
Paid taxing	0	2	0
	£3	6	8

Country.	£	*s.*	*d.*
Usual costs	3	2	0
Attending the judge and paid for order	0	5	4
Bill of costs	0	2	0
Attending to tax	0	3	4
Paid taxing	0	2	0
	£3	14	8

The amount allowed for costs in the Queen's Bench is, we understand, nearly the same.

QUEEN'S BENCH.

When costs have been taxed by the Masters upon a judgment by default, the judgment paper must be given to the clerk in the taxing office, for the purpose of having the costs entered after the Masters have marked the allocaturs.

All parties applying for appointments on references to the Masters under the Common-law Procedure Act, 1854, must apply to the clerk in the taxing office for such purpose.

Commissioner to administer Oaths in Chancery.—The Lord Chancellor has appointed Henry Harwood, Gent., of Bolton, Lincolnshire, to be a Commissioner to administer oaths in the High Court of Chancery in England.

Greenock, merchants.—*Bachop, Yuill, & Co.*, Neilston, calico printers.—*James Donald & Sons*, Dundee and Lochee, flax-spinners.—*William Boyack*, Dundee, flax-spinner.—*Alex. Leask*, Dundee, flax-spinner.

Tuesday, *Dec.* 15.

Bankrupts.

FREDERICK STONE, Oxford, hotel keeper, Dec. 22 and Jan. 28 at 12, London: Off. Ass. Bell; Sols. H. & W. Walsh & Sons, Oxford; Pownalls & Cross, Staple-inn.—Pet. f. Dec. 14.

JAMES CHAPMAN, Sevenoaks, Kent, grocer, Dec. 22 at half-past 11, and Jan. 21 at 2, London: Off. Ass. Bell; Sols. Kingsford & Dorman, Essex-street, Strand.—Pet. f. Dec. 9.

WILLIAM BATES, Surbiton, Kingston-upon-Thames, Surrey, licensed victualler, Jan. 6 at 2, and Jan. 26 at 12, London: Off. Ass. Graham; Sol. Bebb, 12, Argyle-street, Westminster.—Pet. f. Dec. 9.

CHARLES WHEALS, late of Lowestoft, Suffolk, woollen-draper, now of Manningtree, Essex, out of business, Jan. 6 at half-past 1, and Jan. 29 at 12, London: Off. Ass. Stansfeld; Sols. Wire & Child, 1, Turnwheel-lane, Cannon-street.—Pet. f. Dec. 12.

HENRY BEDFORD LEMERE, High-street, Notting-hill, draper, Dec. 29 at half-past 2, and Jan. 22 at 1, London: Off. Ass. Edwards; Sols. Davidson & Bradbury, Weavers'-hall, 22, Basinghall-street.—Pet. f. Dec. 11.

HENRY TYZACK, Old-street-road, St. Leonard's, Shoreditch, tool manufacturer, Dec. 29 at 2, and Jan. 22 at 12, London: Off. Ass. Lee; Sol. Chidley, 10, Basinghall-st.; Scarborough & Alderson, 5, Bloomsbury-square.—Pet. f. Dec. 12.

ROBERT FALK, St. Mary-at-Hill, Little Tower-st., merchant, Dec. 28 at 12, and Feb. 1 at 11, London: Off. Ass. Nicholson; Sol. Herbert, 20, Royal Avenue-terrace, Chelsea.—Pet. f. Dec. 14.

JOHN M'BEAN, Pillgwennlly, near Newport, Monmouthshire, shoemaker, Dec. 29 and Jan. 26 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Girling, Bristol.—Pet. f. Dec. 7.

THOMAS HILL, Areley Wood, near Stourport, Warwickshire, timber merchant, Dec. 28 and Jan. 20 at half-past 10, Birmingham: Off. Ass. Kinnear; Sols. Walcot, Stourport; Hodgson & Allen, Birmingham.—Pet. d. Dec. 9.

ANN HAYWARD, Shrewsbury, Shropshire, innkeeper, Dec. 31 and Jan. 22 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Gordon, Shrewsbury; Hodgson & Allen, Birmingham.—Pet. d. Dec. 14.

WILLIAM SWAIN ROBERTS, Leicester, bookseller, Jan. 5 and 19 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Harvey, Leicester.—Pet. d. Dec. 12.

JOSEPH FREEMAN, Bradford and Kildwick, Yorkshire, wool-top maker, Dec. 31 and Jan. 29 at 11, Leeds: Off. Ass. Young; Sols. Bentley & Wood, Bradford; Bond & Barwick, Leeds.—Pet. d. and f. Dec. 1.

EDWARD HAIGH, Hipperholme-cum-Brighouse, Yorkshire, cotton spinner, Jan. 11 at half-past 11, and Feb. 1 at 11, Leeds: Off. Ass. Hope; Sol. Brierley, Halifax.—Pet. d. Dec. 8.

CHARLES PILKINGTON and THOMAS PILKINGTON, Sheffield, Yorkshire, joiners' tool manufacturers, Jan. 2 and 30 at 10, Sheffield: Off. Ass. Brewin; Sol. Broadbent, Sheffield.—Pet. d. and f. Dec. 12.

THOMAS ELLIS, Heeley Tilt, Sheffield, Yorkshire, steel manufacturer, Jan. 2 and 30 at 10, Sheffield: Off. Ass. Brewin; Sol. Unwin, Sheffield.—Pet. d. and f. Dec. 9.

THOMAS DRIVER ROACH, Kingston-upon-Hull, merchant, Jan. 6 and Feb. 3 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Holden & Sons, Kingston-upon-Hull.—Pet. d. Dec. 11.

THOMAS M'CARTAN, Kingston-upon-Hull, linendraper, Jan. 6 and Feb. 3 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Holden & Sons, Kingston-upon-Hull.—Pet. d. Dec. 4.

AGOP BESHIKTASLIAN, Manchester, Lancashire, and Constantinople, Ottoman Empire, merchant, Dec. 29 and Jan. 27 at 12, Manchester: Off. Ass. Fraser; Sols. Sale & Co., Manchester.—Pet. f. Dec. 10.

JAMES CRABTREE and **JOHN CRABTREE**, Lane Bridge, Habergham Eaves, Lancashire, cotton manufacturers, Dec. 30 and Feb. 1 at 12, Manchester: Off. Ass. Fraser; Sols. Hall & Baldwin, Burnley; Sale & Co., Manchester.—Pet. f. Dec. 11.

SAMUEL HULME, Heaton Norris, Lancashire, cotton spinner, Dec. 29 and Jan. 18 at 12, Manchester: Off. Ass. Pott; Sol. Marriott, Manchester.—Pet. f. Dec. 5.

DAVID HILL, Edenhall, Cumberland, cattle dealer, Dec. 23 at 11, and Jan. 26 at 12. Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Brunskill, Penrith; Watson, Newcastle-upon-Tyne.—Pet. f. Dec. 8.

MEETINGS.

Robert Sutton and *Wm. Haywood*, Liverpool, booksellers, Dec. 28 at 11, Liverpool, aud. ac. sep. est. of *Wm. Haywood.* —*Samuel Wroth Anthony*, Liverpool, commission merchant, Dec. 28 at 11, Liverpool, aud. ac.; Jan. 11 at 11, div.—*M. Banes*, Watling-street, London, warehouseman, Jan. 5 at 12, London, div.—*Thomas B. Deniell*, High-street, Poplar, Middlesex, founder, Jan. 5 at 12, London, div.—*Wm. Tent*, Royal Exchange, London, hosier, Jan. 5 at 12, London, div.—*Beaumont Marshall*, High Holborn, tallow melter, Jan. 5 at 11, London, div.—*John Murray*, Middle Wharf, Great Scotland-yard, St. Martin-in-the-Fields, Middlesex, coal merchant, Jan. 6 at 12, London, div.—*Morris R. Syers*, *James Walker*, and *Daniel B. Syers*, Lombard-street, London, merchants, Jan. 6 at 1, London, div. sep. est. of *Daniel B. Syers.* —*Wm. Houston*, Manchester, joiner, Jan. 4 at 12, Manchester, aud. ac.; Jan. 11 at 12, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Jeremiah Self, Bishop's Waltham, Southampton, innkeeper, Jan. 5 at 1, London.—*Henry Ingall*, Crutched-friars, London, wine merchant, Jan. 5 at 2, London.—*William Freeman*, Fleet-street, bookseller, Jan. 8 at 11, London.—*S. P. Ward*, Cheshunt, Hertfordshire, timber merchant, Jan. 8 at half-past 11, London.—*Isaac Rose*, Tooley-street, Southwark, jeweller, Jan. 6 at 1, London.—*Richard Austin*, Coventry, furniture dealer, Jan. 11 at 10, Birmingham.—*Joseph Cooks* and *John Cooks*, Oakham, Staffordshire, cattle salesmen, Jan. 15 at half-past 10, Birmingham.—*Henry Arnold* and *Henry John Arnold*, Uttoxeter, Staffordshire, cheese factors, Jan. 18 at 1, Birmingham.—*John Taylor*, Leicester, manufacturer of fancy hosiery, Jan. 19 at half-past 10, Nottingham.

To be granted, unless an Appeal be duly entered.

Henry Robertson, St. Michael's-alley, Cornhill, commission agent.—*Octave Foa*, Old Broad-street, merchant.—*Dixon Sharper*, West Hartlepool, Durham, shipchandler.—*J. M. Cooper*, Sunderland, Durham, shipowner.—*John H. Mason*, Blaydon, Durham, glass bottle manufacturer.—*S. Burgess*, Wharton, Cheshire, salt manufacturer.—*Thomas Wheeler* the younger, Poston Mill, Vowchurch, Herefordshire, miller.

PARTNERSHIP DISSOLVED.

James Bourdillon the younger, *Stafford Bourdillon*, and *Charles Gunning*, Great Winchester-street, Broad-street, London, attornies-at-law and solicitors.

SCOTCH SEQUESTRATIONS.

James Cruickshank, Glasgow, baker.—*Hugh Mair*, Glasgow, shoemaker.—*Charles Crotchie*, Inverness, jeweller.—*Grant, Douglas, & Co.*, Glasgow, engineers.—*James Anderson*, Dundee, grocer.

THE PUBLIC RECORD OFFICE.—The Treasury solicitor's papers are now passing through the hands of Mr. Hart, who is engaged in forming a catalogue. They comprise all the law business of the Crown from about 1715 to nearly the present day—prosecutions of every kind, including a curious and interesting series of indictments for libel, sedition, and blasphemous books and speeches, examples from which we should be glad to give our readers, but that these documents are not open to public inspection. These papers are viewed in the same light as the papers of an attorney. But we venture to suggest that the Master of the Rolls might direct a selection to be made of such papers as could be opened without detriment. For instance, we would name the rebellion papers of 1745.—*Athenæum*, No. 1568, p. 1425.

MEMBERS RETURNED TO SERVE IN PARLIAMENT.—Alexander Hugh Baring, Esq., for the borough of Thetford, in the room of the Hon. Francis Baring, who has accepted the office of Steward of her Majesty's Chiltern Hundreds; Robert John Bagshaw, Esq., for the borough of Harwich, in the room of George Drought Warburton, Esq., deceased; William Deedes, Esq., for the eastern division of the county of Kent, in the room of Sir Edward Cholmley Dering, Bart., who has accepted the office of Steward of her Majesty's manor of Northstead; Humphrey Ewing Crum Ewing, Esq., for the town of Paisley, in the room of Archibald Hastie, Esq., deceased; John Dent Dent, Esq., for the borough of Scarborough, in the room of the Right Hon. George Augustus Constantine Phipps, commonly called Earl of Mulgrave, who has accepted the office of Steward of her Majesty's manor of Hempholme, in the county of York.

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THOMAS TULLY, Tudely, Kent, builder, Jan. 5 at half-past 2, and Jan. 29 at 1, London: Off. Ass. Edwards; Sols. Martin & Co., Mincing-lane.—Pet. f. Dec. 16.

JOHN COLLING, Colchester-terrace, Angel-lane, Stratford, Essex, late of Regent-street, Mile-end, Middlesex, timber merchant, Dec. 29 at 3, and Jan. 29 at 12, London: Off. Ass. Edwards; Sol. Juckes, 10, Bridgwater-square, Barbican.—Pet. f. Dec. 16.

SAMUEL PEARCE, Minories, City, oilman, Dec. 28 at 1, and Feb. 3 at 11, London: Off. Ass. Pennell; Sol. Dalton, 9, King's Arms-yard, Moorgate-street.—Pet. f. Dec. 17.

THOMSON WEBB, Park-terrace, Camden-town, cheesemonger, Dec. 29 at half-past 11, and Jan. 28 at 1, London: Off. Ass. Bell; Sol. Chidley, Basinghall-street.— Pet. f. Dec. 16.

GEORGE BELSEY, late of Fairfield-villa, St. Peter the Apostle, and now of Southwood-villa, St. Lawrence, Isle of Thanet, Kent, corn dealer, Jan. 12 at half-past 1, and Jan. 29 at half-past 12, London: Off. Ass. Stansfeld; Sols. Mercer & Edwards, Ramsgate; Mercer, 2, Raymond-buildings, Gray's-inn.—Pet. f. Dec. 16.

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JOHN LANCASTER and JOHN BRAYFORD, Walsall, Staffordshire, iron manufacturers, Jan. 8 at half-past 11, and Jan. 22 at 10, Birmingham: Off. Ass. Kinnear; Sols. James & Knight, and E. & H. Wright, Birmingham.—Pet. d. Dec. 16.

WILLIAM KEMPSON WALKER, late of Wolverhampton, Staffordshire, hide and skin merchant, but now a prisoner in her Majesty's Gaol at Stafford, Jan. 7 and 21 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Brinton, Kidderminster; Reece, Birmingham. — Pet. d. Dec. 7.

JOHN OWEN and JOHN MATTHEW GUTCH, Worcester, bankers, (trading under the style or firm of Farley, Lavender, Owen, & Gutch), Jan. 8 and Feb. 5 at 12, Birmingham: Off. Ass. Whitmore; Sols. Pidcock, Worcester; Hodgson & Allen, Birmingham.—Pet. d. Dec. 10.

JOHN GRIFFITH WILLIAMS, Newport, Monmouthshire, rope maker, Jan. 4 and Feb. 2 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan & Girling, Bristol; Overbury & Peek, Frederick's-place, Old Jewry.—Pet. f. Dec. 11.

GEORGE PARSONS, Oakhill, Somersetshire, ironmonger, Jan. 4 and Feb. 1 at 11, Bristol: Off. Ass. Miller; Sols. Hobbs & Alder, Wells, Somersetshire.—Pet. f. Dec. 16.

ROBERT HENRY ANDERSON, York, scrivener, Jan. 8 and 12 at 11, Leeds: Off. Ass. Young; Sol. Blackburn, Leeds.—Pet. d. and f. Dec. 17.

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JOSEPH DAVENPORT, Sheffield, silver plater, Jan. 2 and 30 at 10, Sheffield: Off. Ass. Brewin; Sol. Broadbent, Sheffield.—Pet. d. and f. Dec. 15.

SAMUEL BRACEGIRDLE, Leftwich, Cheshire, timber merchant, Jan. 4 and 25 at 11, Liverpool: Off. Ass. Morgan; Sols. Harvey & Co., Liverpool; Cheshire, Northwich. —Pet. f. Dec. 16.

WILLIAM RAINFORD, Liverpool, upholsterer, Jan. 7 and 28 at 11, Liverpool: Off. Ass. Bird; Sol. Dodge, Liverpool.—Pet. f. Dec. 16.

ALFRED GUTTMANN, Manchester, lace manufacturer, Dec. 29 and Jan. 27 at 12, Manchester: Off. Ass. Pott; Sol. Hall, Manchester.—Pet. f. Dec. 10.

WILLIAM WILD, Rochdale, Lancashire, machine maker, Dec. 29 at 11, and Feb. 26 at 12, Manchester: Off. Ass. Fraser; Sol. Lord, Rochdale.—Pet. f. Dec. 14.

ROBERT LEES, Oldham, Lancashire, cotton spinner, Jan. 4 and 25 at 12, Manchester: Off. Ass. Fraser; Sols. Atkinson & Co., Manchester.—Pet. f. Dec. 9.

GEORGE ASHWORTH, Manchester, and Newchurch, Rossendale, Lancashire, cotton spinner, Dec. 30 and Jan. 20 at 1, Manchester: Off. Ass. Pott; Sols. Sale & Co., Manchester.—Pet. f. Dec. 11.

CHRISTOPHER CROSS, Habergham Eaves, near Burnley, Lancashire, cotton manufacturer, (formerly carrying on business with Daniel Snape, under the firm of D. Snape & Co.), Dec. 29 and Jan. 26 at 12, Manchester: Off. Ass. Pott; Sols. Higson & Robinson, Manchester.—Pet. f. Dec. 16.

Meetings.

John Owen and *John M. Gutch*, Worcester, bankers, Jan. 2 at 12, and Jan. 4 at 10, Worcester, pr. d.—*Henry Osborn*, Water-lane, City, and Great Windmill-street, Haymarket, Middlesex, wine merchant, Jan. 5 at half-past 12, London, last ex.—*Wm. Duckworth*, Primrose Mill Church, near Accrington, and Lumb, Rossendale, Lancashire, cotton manufacturer, Dec. 21 at 12, Manchester, last ex.—*Thomas Sidden*, Rochester, Kent, coal merchant, Dec. 31 at 2, London, aud. ac.—*Morris Robert Syers*, *James Walker*, and *Daniel Backhouse Syers*, Ball-alley, Lombard-street, City, and Liverpool, merchants, Jan. 4 at 11, London, aud. ac. sep. est. of *Daniel Backhouse Syers*.—*Robert Clough*, Oxford-street, hosier, Dec. 29 at 1, London, aud. ac.—*Cornelius Davies* and *Frederick Norman*, Great Scotland-yard, Westminster, cement merchants, Dec. 31 at 11, London, aud. ac.—*James John Stephenson Outtrim*, Oakley-terrace, Old Kent-road, Surrey, ladies' outfitter, Dec. 31 at 12, London, aud. ac.—*Friedrich Ernst Daniel Hast*, Aldermanbury, City, merchant, Dec. 31 at 12, London, aud. ac.—*Robert Martin* and *David Wardlaw Scott*, Great St. Helen's, City, merchants, Dec. 31 at half-past 11, London, aud. ac.—*John Banyard*, Shoreham, Sussex, brewer, Dec. 31 at half-past 11, London, aud. ac.—*George Young*, Old-street-road, Middlesex, victualler, Dec. 31 at half-past 11, London, aud. ac.—*John Laker* the elder, Maidstone, Kent, builder, Dec. 31 at 11, London, aud. ac.—*John Hinkley* the younger, Brentwood, Essex, corn dealer, Dec. 31 at half-past 11, London, aud. ac.—*William Ford Wallington*, Oxford, tailor, Dec. 31 at 11, London, aud. ac.—*Reuben Theodore Glover* and *Edgar Augustus Glover*, Piccadilly, licensed victuallers, Dec. 31 at 12, London, aud. ac.—*Thomas Stoyles Sansbury*, Mark-lane and Seething-lane, City, dealer in hemp, Dec. 31 at 11, London, aud. ac.—*William Hackett*, Oxford, gas engineer, Dec. 31 at 12, London, aud. ac.—*Job Curtis* and *Henry Hunt Sayer*, Cardiff, Glamorganshire, general provision merchants, Dec. 31 at 11, Bristol, aud. ac.—*Frederick Wm. Pool*, Bristol, licensed victualler, Jan. 14 at 11, Bristol, aud. ac.—*Samuel Hawkins Napier* and *John Hewitson*, Liverpool, ship chandlers, Dec. 30 at 11, Liverpool, aud. ac.—*Benjamin Grut*, Sambrook-court, Basinghall-street, City, merchant, Jan. 8 at half-past 11, London, div.—*John Brickwood* the elder, *John Brickwood* the younger, *John Rainier*, *Wm. Morgan*, and *Joseph Starkey*, Lombard-street, City, bankers, Jan. 8 at half-past 12, London, div. sep. est. of *John Brickwood* the elder.—*George Fox*, Wells-mews, Wells-street, Oxford-street, fret cutter, Jan. 8 at 1, London, div.—*Louis Birnstingl*, Broad-street-buildings, merchant, Jan. 8 at half-past 1, div.—*John Manship Mills* and *William Billington Mills*, Great Berkhampstead, Hertfordshire, brewers, Jan. 14 at 1, London, div. joint est., and div. sep. ests.—*H. Houghton*, Friday-street and Watling-street, City, merchant, Jan. 14 at 12, London, div.—*Wm. Lyon*, Guildford, Surrey, butcher, Jan. 14 at 12, London, div.—*Wm. Savage*, Winchester, Southampton, Berlin wool dealer, Jan. 14 at 12, London, div.—*William Buddle*, Delamere-terrace, Paddington, builder, Jan. 12 at 2, London, div.

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THE JURIST.

LONDON, DECEMBER 26, 1857.

Whatever may be thought of the general effects due to the late alterations in the law of procedure and practice, some of the indirect and remoter effects, it may already be discerned, are not altogether such as might be wished. Probably such must always be the result of making changes, however imperative the necessity for them may have become, in a vast edifice of jurisprudence the growth of centuries; the advantage largely preponderates, but still disadvantages are not imperceptible—the good is not unchequered with evil. So it was, most remarkably, in the case of the alterations of twenty-five years ago, which established the new Pleading Rules. How they were hailed as embodiments of sagacity, acuteness, and skill, guided at once by a wary fear of cutting away vital parts, and by a bold determination to lighten the burthens upon suitors, and prevent delays, at almost all hazards: scarce a voice being heard in opposition to the fashion of the day; or if a stray whisper of dissatisfaction found expression, it was only to be scouted at once as the dotage of some withered elder, whose intellectual machinery was thrown out of gear by the change. But as time brought with it experience, opinions began to modify—failures, shortcomings, positive evils, to be attributed to the once boasted New Rules, until at length, what none had foreseen, all became more or less convinced of, that further alterations, cutting deeper, sweeping wider, were imperatively required, and must be adopted. Those have been made, and made, few will deny, by strokes denoting a more masculine hand and steadier aim than guided the reforms of 1832. Will the existing code, by the end of the next quarter of a century, have fallen as far to the leeward of men's respect and favour as that which was launched in 1832, with so much applause, has since done? Or may we look for permanence in the new institutions? Now, assuredly few things connected with legislation are more devoutly to be wished than permanence for the late arrangements, not only because a succession of changes is most distressing to the whole body of persons who are engaged in the administration of the law, from the highest magistrate to the humblest practitioner, each of whom finds at each innovation large fields of his previous study, vast tracts of knowledge cultivated by his toil, laid waste, and made useless to him for ever: not only because, after each innovation, the labours of the Courts of law are necessarily for a long time much devoted to the settlement of the multiplied questions that arise out of them, to be settled in every case at the expense of the suitors: but because, as the history of all legislation, and none more than that of England, shews, the respect of a people for its laws depends materially upon the duration of them. Recent legislation seldom obtains the same degree of ready acquiescence, has but rarely as much affiance placed in it, or complete reverence accorded to it, as that which time has sanctioned, and experience set its stamp upon. Now, it is not much, perhaps, that public writers have the means of effecting towards the diffusion of that spirit of present satisfaction with the mode in which a new system of law works, which will eventually result in its general adoption as a final settlement; but something for that end it may be possible to accomplish by pointing out, as they occur, instances of benefits conferred by that system, in place of evils inflicted by the old, and perhaps also by inviting attention to cases where the principles of the later scheme, if pressed too far, and carried beyond the limit designed by Parliament, may, it is not impossible, lead to evils as great as some of those that were due to the old procedure—must, at any rate, lead to evils. Considering, then, that it will not be uninteresting for the large class of persons who in this country are attached to the cause of law reform to find placed before them from time to time any aids in the task of watching the practical operation of the reforms which have been effected, and also that it will not be useless to the practitioner who is engaged in the active pursuits of the Profession to be kept aware of the nature and tendency of their operation, and to have attention invited to the landmarks to be steered by and the shoals to be shunned, we propose, as proper occasions seem to present themselves, to devote some space to these objects; to illustrating from decided cases the benefits which have been derived from the new acts for the amendment of common-law procedure, as contrasted with the former system; and to pointing out some results—the effects, perhaps, which those acts have produced in modes of thinking and of looking at legal questions, rather than legitimate and direct applications of them—which may tend, if pursued further, to abridge the full benefit that might otherwise be derivable from their operation. The remainder of this article may be fitly devoted to some remarks in illustration of this. It is not wholly unusual at present to hear opinions, pretty confidently expressed, to the effect, that by consent almost anything may be done now, part of the new legislation being appealed to in support of the proposition. Now, if by a short inquiry into the law of consent of parties it can be clearly shewn what consent does *not* extend to effect, according to previous decisions, and then, by reference to the late Common-law Procedure Acts, it shall be made to appear that the language used does not import any further change in that law than is thereby specified and particularised, some advantage may perhaps be gained.

1. Now, first, it is a certain rule that consent of parties cannot give jurisdiction to a tribunal which is not of itself clothed with jurisdiction to try the case in question. (*Vansittart* v. *Taylor*, 4 El. & Bl. 912; *Jones* v. *Owen*, 5 Dowl. & L. 669; *Reg.* v. *Hartshorn*, 2 Burr. 740). Thus, parties cannot by consent give jurisdiction to the sheriff to try a tort, the writ of trial being by the statute only applicable to debts and pecuniary demands. (*Smith* v. *Brown*, 2 M. & W. 851. See *Collis* v. *Groom*, 1 Dowl., N. S., 496; *Lawrence* v. *Willcock*, 11 Ad. & El. 941; and *Lismore* v. *Beadell*, 6 Jur., part 1, p. 309). It is true, that where there is no inherent defect of jurisdiction in the constitution of the court, and all that the parties have agreed to waive is matter of form, there consensus tollit errorem; as where a local action has been tried in a wrong county; and the principle is, that each party, having attorned to the jurisdiction of the court, is too late, after the trial is over, to take advantage of the irregularity. (*Furnival* v. *Stringer*, 1 Bing. N. C. 68; Co. Litt. 126. a.) The same principle prevailed after imparlance, according to the ancient practice. (See Year Book, 22 Edw. 4, fol. 23, pl. 3; 22 Hen. 6, fol. 7).

2. Consent cannot oust jurisdiction. (*Scott* v. *Avery*, 5 H. L. C. 811; *Foster* v. *Jackson*, Hob. 56. See *Wade* v. *Simeon*, 13 M. & W. 647, and *Lowndes* v. *The Earl of Stamford*, 21 L. J., Q. B., 373). Even an act of Parliament cannot operate to oust the jurisdiction of the superior courts of Westminster, unless the intention to do so is expressed in direct terms, or follows by inevitable implication. (*Cates* v. *Knight*, 3 T. R. 442; *The Earl of Shaftesbury* v. *Russell*, 1 B. & Cr. 666).

3. Consent of parties does not avail to alter the settled rules of law, which are universally applicable, being established out of regard to the welfare of the community, and not for the advantage of particular descriptions of persons. Instances of this rule are obvious. Every one is aware that consent cannot set aside the marriage tie—cannot create a new estate having qualities unknown to the law: ex gr. no agreement between vendor and vendee can impress upon the fee-simple conveyed a character of descendibility to heirs female; still less can consent operate to set aside or elude the prohibitions of the common or statute law. Thus A. agrees to let and B. to take, for a term, certain premises, for the purpose of B. doing in them something prohibited by statute; when A. sues for the rent, B. has an answer in the above facts, and may retain the premises for the residue of the term rent free. (*The Gas-light Company* v. *Turner*, 5 Bing. N. C. 675; S. C., in error, 6 Bing. N. C. 701). So in all cases where the maxim "in pari delicto potior conditio defendentis" comes into operation. So the substantial rules of evidence cannot be dispensed with by consent: thus no agreement of the parties at the trial could set aside the fundamental rule, that all evidence must be on oath, or that the jury must be sworn; and generally it has been held that the Court at Nisi Prius will reject illegal evidence, though both parties agree to admit it; (*Shaw* v. *Roberts*, 2 Stark. 455); "for a judge is bound to administer the whole law of England, the laws of evidence included; and although a practice has crept in of allowing objections to evidence to be waived, it is always a question for the presiding judge whether he will permit that, and he would always be justified in calling on the parties to adhere to the law." (Per Pollock, C. B., in *Barbit* v. *Allen*, 21 L. J., Ex., 159, where the question was, whether the incompetency of a

witness could be removed by consent. See *Elizabeth Barker* v. *Dixie*, Cas. t. Hardw. 264, where Lord Hardwicke, C. J., refused to permit it). On the other hand, there is no doubt that this or its equivalent frequently has been permitted; an instance of which occurs in *Ross* v. *Hunter*, (4 T. R. 34), where the plaintiff's letters to his correspondents were by consent admitted as evidence for him. The rule was adhered to in *Owen* v. *Thomas*, (3 My. & K. 357), in which case consent was not allowed to dispense with a stamp on documents that by law were not admissible without one. (See also *Fortescue's case*, 7 Car. & P. 495; *Thornhill's case*, 8 Car. & P. 575; *Bennion* v. *Jewison*, 12 Jur., part 1, p. 485; per Lawrence, J., in *Hodgson* v. *Glover*, 6 East, 326; and *Barron* v. *Grillard*, 3 V. & B. 166). So in *Hardy's case*, (24 Ho. St. Tr. 1360), a protest of certain peers in the House of Lords, which had been read by consent of the Attorney-General (Sir J. Scott) on the part of the prisoner, was excluded from the consideration of the jury as evidence. In cases where, however, the maxim "quilibet potest renunciare juri pro se introducto" applies—that is, where the provision of the common or statute law has been made for the benefit of a particular class of persons, or persons in particular situations—then consent is sufficient to dispense with the provision. Thus, it being a rule of evidence, established for the benefit both of plaintiffs and defendants, that documentary evidence shall be read in open court at length, the parties may consent that it shall be taken as read; so counsel for the prisoner may dispense with formal proof on the part of the Crown, and the conviction will be good. (8 Car. & P. 575). The question has never arisen whether the not uncommon practice of consenting that a cause should be tried by fewer than twelve jurymen is tenable on legal grounds; but upon the principle of the old authorities, which always speak of a verdict as the finding of twelve men, and upon the reason of the thing, it would seem to be doubtful whether such a verdict could be supported; for if a jury of eleven or ten may try the cause and give a legal verdict by consent, why may not a jury of three or two? It is to be observed, that the practice of withdrawing a juror by consent, in order to put a stop to the trial, proceeds on the supposition that eleven cannot try and give a verdict. It may also be observed, that admitting the parties who had given the consent to be prevented from disputing the verdict, it has yet to be decided that parties claiming through them might not, on occasion of an action in which such verdict and judgment recovered thereon was relied on, impeach the legal validity of it. If it be true that the meaning in law of jury is twelve men sworn to try issues, a less number, it would seem, are incompetent to try; and the decision of a tribunal which has no jurisdiction in the matter is a mere nullity. (*The Attorney-General* v. *Hotham*, 3 Turn. & R. 219; S. C., in error, 3 Russ. 415).

Other instances, in which the strict rules of evidence have been departed from at Nisi Prius upon the ground of consent, are not wanting. Thus, where a trial had resulted in the reservation of a special case, but in settling that a material fact had been omitted, so that the Court were not in a position to give judgment on it, and accordingly the parties went down to a second trial, the special case was there admitted to shew the facts, so far as it went, and its production was held to dispense with a second proof of those facts, although the jury was a fresh jury. (*Van Wart* v. *Wolley*, Ry. & M. 4). In like manner, if counsel on each side so conduct the cause as to lead to a conclusion that a certain fact by consent is taken as proved, it will be so taken for all purposes, although no testimony to it be adduced. (*Stracy* v. *Blake*, 1 M. & W. 168; *Doe* v. *Roe*, 1 El. & Bl. 279; *Bolton* v. *Sherman*, 2 M. & W. 403). But this practice will not be allowed, it seems, to develope itself further; for when, on a second trial, the defendant endeavoured to avoid part of the plaintiff's demand, by proving an admission which on the former trial had been made in the plaintiff's presence by his counsel in his opening, so as to shew the admission to have been made with his assent, the evidence was rejected, and though a new trial was granted, it was not on this point that the Court made the rule absolute. (*Colledge* v. *Horn*, 3 Bing. 119). These are, we believe, the principal points which have hitherto been laid down as to what consent of parties cannot effect, with their modifications. Then is there anything in the late Procedure Acts, or in the decisions which have taken place upon them, to shew any intention of the Legislature, as interpreted by the Courts, to give greater effect to consent? Now, the act of 1852, in sects. 35 and 36, gives powers of striking out or adding the names of persons to be plaintiffs in a case before trial and at the trial respectively, with the consent of such persons; but so far from those sections shewing any intention to leave this species of consent open to development in any improper manner, it is carefully guarded by requiring the judge to be satisfied that the amendment will be consonant to justice. Then, by sect. 42, parties are allowed to consent to raise a question of fact for the decision of the jury without pleadings, &c., the judge being here also required to be satisfied that there is a question of bonâ fide interest between them, and also that it is a fit question to be tried. Then, by sect. 43, they may consent beforehand to a sum being paid upon the finding of the jury, by or to one or the other of them, as the case may turn out, &c.; and so, by sect. 46, they may consent to present a question of law for the decision of the Court without pleadings; and this, it has been settled, can only be available in case of a question in which the parties have a bonâ fide interest, &c., (6 C. B. 100); and they may, (sect. 47), as before, consent to the payment of a sum of money, accordingly as the judgment shall go. Then, sect. 179 establishes, as to ejectment, the practice of settling a special case by consent, and leave of a judge.

These are the principal enactments with regard to consent of parties in the act of 1852.

(*To be concluded in our next number.*)

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The rule of law, that every man is presumed to be of sane mind till the contrary is shewn, is in its application sometimes pushed beyond its legitimate limits. The difficulty seems to arise from assigning too much weight to it when met by rebutting evidence, and in not rightly appreciating the force of such evidence in shifting the burthen of proof from one side to the other.

An instance of the misapplication of the presumption in question was afforded in the case of *Sutton* v. *Sadler and Another*, (3 Jur., N. S., part 1, p. 1150). The action was ejectment by the heir against devisees. The defendants, admitting the heirship, claimed and exercised the right to begin; they proved the will upon which they relied, and gave evidence of the testator's competency to make it. The plaintiff thereupon gave evidence impeaching the testator's competency à nativitate. The learned judge who tried the cause, in summing up, told the jury, that "the heir-at-law was entitled to recover unless a will was proved; but that when a will was produced, and the execution of it proved, the law presumed sanity, and therefore the burthen of proof was shifted, and that the devisees must prevail, *unless the heir-at-law established the incompetency of the testator; and that if the evidence was such as to make it a measuring cast, and leave them in doubt, they ought to find for the defendants.*" The jury having found for the defendants, the Court of Common Pleas made absolute a rule for a new trial upon the ground of misdirection. The Court, in delivering their judgment, start with the well-established rule, that as "he who relies on a will, in opposition to the title of the heir-at-law, must allege that it is the will of a person of sound and disposing mind, he must therefore prove it." This he may do by producing a will, not irrational on the face of it, and proving its execution: then, if no other evidence is offered, the jury ought to find for the will. The party alleging the will is thus far aided by the presumption of sanity. The Court say that this presumption is "an inference to be made by a jury from the *absence of evidence* to shew that a party does not enjoy that soundness which experience proves to be the general condition of the human mind." The presumption of sanity, therefore, has the effect, in the first instance, of shifting the burthen of proof, and it then lies on the party impugning the will to give some evidence of incompetency on the part of the testator. But supposing this to be done, there is an end to the presumption; it has discharged its office, and the party propounding the will is then remitted to his original position; he must prove by evidence that it is the will of a person of sound and disposing mind, "and the Court or jury who have to decide the question in dispute must decide upon the whole of the evidence so given, and if it does not satisfy them *that the will is valid*, they ought to pronounce against it. . . . And when the whole matter is before the jury on evidence given by both sides, they ought not to affirm that a document is the will of a competent testator unless they believe that it really is so." In the case before the Court the devisees had not relied upon the primâ facie case, but had at once given evidence of competency; they had, in fact, not availed themselves at all of the presumption in their favour. The Court, however, held that the result was the same, the only difference being that the onus of proof remained on them *throughout* the progress of the cause, instead of being shifted, as it might have been at one period of it, upon the other side. We may add, that the Court fully recognised the principle, that although there is the general presumption of sanity, yet when insanity has been admitted or proved to have existed at any particular period, the presumption then changes, and it is presumed that unsoundness of mind continues, and the party setting up any instrument executed after insanity has manifested itself must shew recovery. (See *The Attorney-General* v. *Parnther*, 3 Bro. C. C. 441, and *Groom* v. *Thomas*, 2 Hagg. 434).

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Thos. Bruce Cooper, York-place, Old Kent-road, builder, Jan. 8 at 2, London.—*James Saunders*, Thurlton, Norfolk, miller, Jan. 8 at half-past 1, London.—*Henry Hine*, Piccadilly, laceman, Jan. 15 at 11, London.—*James Cooper*, High-street, Marylebone, upholsterer, Jan. 8 at 1, London.—*Henry Cockburn*, Richmond, Surrey, watchmaker, Jan. 8 at 12, London.—*David Davies*, Pontlottyn, Gelly-Fear, Glamorganshire, and Cwyn St. Matthew, Bedwelty, Monmouthshire, grocer, Jan. 12 at 11, Bristol.—*Frederick William Pool*, Bristol, licensed victualler, Jan. 11 at 11, London.—*William Jopling*, Wolsingham, Durham, linendraper, Jan. 14 at half-past 12, Newcastle-upon-Tyne.—*Dovey Hawkesford* and *John Hawkesford*, Bilston, Staffordshire, screw manufacturers, Jan. 11 at 10, Birmingham.

To be granted, unless an Appeal be duly entered.

Robert Ashling, Duxford, Cambridgeshire, brewer.—*Thos. Thompson Ponsonby*, Piccadilly, carver.—*Morris Roberts Syers*, *James Walker*, and *Daniel Backhouse Syers*, Ball-alley, Lombard-street, merchants.—*Wm. Anderson*, Broad-street, Ratcliff, plumber.—*Thomas Moon*, Regent-street, St. James's, bookseller.—*Wm. Holloway*, Watford, Hertfordshire, coal merchant.—*Thomas Roper*, Falcon-square, City, wholesale druggist.—*Robert C. Cream*, Rushall, Wiltshire, apothecary.—*O. Hall*, Albemarle-street, Piccadilly, poulterer.—*John Linnit*, Berners-street, Oxford-street, manufacturing jeweller.—*Joseph Harrison*, Epsom, Surrey, corn chandler.—*Joseph Mosedale*, Coventry, engineer.—*Arthur Jennings Kitchen*, Elland, Yorkshire, woollen manufacturer.

PETITION ANNULLED.

Wm. Benjamin Phillips, Birmingham, bolt manufacturer.

SCOTCH SEQUESTRATIONS.

Wm. Hailstones, Clarkston, near Airdrie, grocer.—*Patrick Reid Russell*, Bathgate, Linlithgowshire, draper.—*William Bailey*, jun., Edinburgh and Leith, merchants.—*Wm. Brown & Co.*, Glasgow, oil merchants.—*John M'Dougall*, Rothesay, cattle dealer.—*Charles Greenshields Reid*, Grangehill, writer to the signet.—*James Simpson*, Keith, solicitor.—*David Neill*, Glasgow, stoneware manufacturer.—*Alexander Chalmers & Co.*, Greenock, grocers.

TUESDAY, *Dec.* 22.

BANKRUPTS.

CHARLES HUBBARD, Queen's-road, Haverstock-hill, builder, Jan. 5 at 3, and Feb. 2 at 12, London: Off. Ass. Edwards; Sols. J. & J. H. Linklater & Co., 17, Sise-lane, London.—Pet. f. Dec. 7.

JOHN COLLINSON, Pittman's-buildings, Ironmonger-row, Old-street, St. Luke's, licensed victualler, Dec. 31 at half-past 11, and Jan. 29 at 11, London: Off. Ass. Johnson; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry. Pet. f. Dec. 10.

SAMUEL HARRIS and ISAAC GABRIEL COSTA, Commercial-street, Whitechapel, wholesale clothiers, Dec. 29 at 1, and Jan. 28 at 2, London: Off. Ass. Johnson; Sol. Smith, Tokenhouse-yard.—Pet. f. Dec. 15.

SAMUEL EDWARD STEANE, Oxford, soap manufacturer, (trading under the style or firm of J. E. Steane & Co.), Jan. 5 and Feb. 4 at 12, London: Off. Ass. Johnson; Sols. Hester & Hazel, Oxford; J. & J. H. Linklater & Co., 17, Sise-lane, London.—Pet. f. Dec. 21.

ROBERT CAVE, Windsor, Berkshire, fishmonger, Jan. 4 at 12, and Feb. 8 at 11, London: Off. Ass. Pennell; Sols. Walker & Son, 13, St. Swithin's-lane, City.—Pet. f. Dec. 10.

MARJORY MOON, Green-street, Grosvenor-square, child-bed linen manufacturer, (lately carrying on business with Chas. T. Moon, under the name of Mrs. Moon), Jan. 4 at 1, and Feb. 8 at 12, London: Off. Ass. Pennell; Sols. Lawrence & Co., 12, Bread-street, Cheapside.—Pet. f. Dec. 21.

JOHN STARKEY and JOHN FREDERICK ADCOCK, Birmingham, percussion-cap makers, Jan. 9 and 29 at half-past 11, Birmingham: Off. Ass. Kinnear; Sol. Smith, Birmingham.—Pet. d. Dec. 19.

THOMAS BARRS, Cotwell End, Sedgley, Staffordshire, maltster, Jan. 4 and 25 at half-past 10, Birmingham: Off. Ass. Kinnear; Sol. Smith, Birmingham.—Pet. d. Dec. 21.

HENRY JOHNSON, West Bromwich, Staffordshire, licensed victualler, Jan. 4 and 25 at half-past 10, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham.—Pet. d. Dec. 18.

JOHN JAMIESON M'RAE, Newark-upon-Trent, Nottinghamshire, tailor, Jan. 5 and 26 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Foottit, Newark-upon-Trent; Ryland & Martineau, Birmingham.—Pet. d. Dec. 10.

THOMAS GULLICK, Bristol, victualler, Jan. 5 and Feb. 8 at 11, Bristol: Off. Ass. Miller; Sol. Hassall, Bristol.—Pet. f. Dec. 12.

EDWARD SMYTH, Swansea, Glamorganshire, draper, Jan. 4 and Feb. 9 at 11, Bristol: Off. Ass. Acraman; Sols. Brown, Swansea; Taddy, Bristol.—Pet. f. Dec. 18.

ALEXANDER BRYSON, Redcar, Yorkshire, brewer, Jan. 11 at half-past 12, and Feb. 9 at 11, Leeds: Off. Ass. Hope; Sols. Allison, Darlington; Cariss & Cudworth, Leeds.—Pet. f. Dec. 18.

JOHN STEAD, Dewsbury, Yorkshire, joiner, Jan. 12 at half-past 11, and Feb. 9 at 11, Leeds: Off. Ass. Hope; Sol. Chadwick, Dewsbury.—Pet. d. Dec. 21.

WILLIAM CROSSLEY and **GEORGE CROSSLEY**, Elland, Yorkshire, cotton spinners, Jan. 8 and Feb. 12 at 11, Leeds: Off. Ass. Young; Sols. Stocks & Franklin, Halifax: Bond & Barwick, Leeds.—Pet. d. Dec. 21.

JOHN BUCKLEY SHARP, Bingley and Bradford, Yorkshire, worsted spinner, Jan. 8 and 29 at 11, Leeds: Off. Ass. Young; Sols. Bentley & Wood, Bradford; Cariss & Cudworth, Leeds.—Pet. d. and f. Dec. 19.

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WILLIAM GOUNDRILL, Eastrington, Yorkshire, farmer, Jan. 13 and Feb. 10 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Cariss & Cudworth, Leeds.—Pet. d. Dec. 12.

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JAMES RAYNES, Liverpool, and Cork, Ireland, shipowner, Jan. 4 and 25 at 12, Liverpool: Off. Ass. Morgan; Sol. Greene, Liverpool.—Pet. f. Dec. 21.

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GEORGE WORSDELL, Warrington, Lancashire, iron manufacturer, Jan. 4 and Feb. 1 at 12, Manchester: Off. Ass. Fraser; Sols. Nicholson, Warrington; Sale & Co., Manchester.—Pet. f. Dec. 19.

ANDREW VEITCH, Newcastle-upon-Tyne, music seller, Dec. 30 at 11, and Feb. 19 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hoyle, Newcastle-upon-Tyne; Hill & Matthews, 1, Bury-court, St. Mary Axe, London.—Pet. f. Dec. 11.

MEETINGS.

Henry Cockburn, Richmond, Surrey, watchmaker, Jan. 8 at 12, London, aud. ac.; Jan. 13 at 12, div.—*Thomas Sommerville*, Abbey Nursery, Garden-row, St. John's-wood, Middlesex, nurseryman, Jan. 5 at 1, London, aud. ac.—*Mary Ann Akers*, Brizemorton, Oxfordshire, baker, Jan. 8 at 12, London, aud. ac.—*Sir Samuel Hancock*, Knt., Emmetts, near Eden-bridge, Kent, cattle dealer, Jan. 12 at 11, London, aud. ac.—*William Thomas Searle*, Victoria-road, Deptford, builder, Jan. 1 at 1, London, aud. ac.—*John Catt* and *Arthur Wellington Callen*, Lower Shadwell, Middlesex, beer merchants, Jan. 5 at 1, London, aud. ac.—*John Benj. Lings* and *John Lings*, High-street, Southwark, cheesemongers, Jan. 14 at 1, London, aud. ac.—*Henry Williams*, Swansea, Glamorganshire, timber merchant, Jan. 7 at 11, Bristol, aud. ac.—*John Lownds*, York-place, Vauxhall-bridge-road, Pimlico, watchmaker, Jan. 13 at half-past 11, London, div.—*Thomas Rutherford*, Agnes-place, Waterloo-road, Jan. 13 at 12, London, div.—*Angus Macdonald* and *Archibald Campbell*, Regent-street, Westminster, army agents, Jan. 13 at 11, London, fin. div.—*Robert Hugh Lankester*, Bread-street, Cheapside, enamelled bag manufacturer, Jan. 15 at 12, London, div.—*Isaac Rose*, Tooley-street, Southwark, Surrey, jeweller, Jan. 12 at half-past 11, London, div.—*William Randall Barrett*, Folkestone, Kent, ironmonger, Jan. 13 at half-past 12, London, fin. div.—*William Harding Burgess*, Miles's-lane, City, and Chink-street, Southwark, Surrey, export oilman, Jan. 13 at 1, London, div.—*John Brickwood* the elder, *John Brickwood* the younger, *John Rainier*, *Wm. Morgan*, and *Joseph Starkey*, Lombard-street, City, bankers, Jan. 13 at 12, London, div.—*Sampson Lucas Sanville*, Skinner's-place, Sise-lane, City, merchant, Jan. 13 at half-past 12, London, fin. div.—*William Brailsford*, Nottingham, smallware dealer, Feb. 2 at half-past 10, Nottingham, aud. ac. and div.—*James Wallwork*, Chorley, Lancashire, cotton spinner, Jan. 7 at 11, Manchester, aud. ac.; Jan. 14 at 11, div.—*Richard Langston* the elder, Manchester, cotton merchant, Jan. 6 at 12, Manchester, aud. ac.; Jan. 13 at 12, div.—*Charles Brown*, Birmingham, leather dealer, Jan. 18 at 10, Birmingham, div.—*James Wearing*, Ulverston, Lancashire, joiner, Jan. 15 at 12, Manchester, div.—*John Hair*, Newcastle-upon-Tyne, insurance broker, Jan. 15 at 1, Newcastle-upon-Tyne, div.—*Edward Lane*, New Ferry, Cheshire, merchant, Jan. 14 at 11, Liverpool, div.—*Samuel Hawkins Napier* and *John Hewitson*, Liverpool, ship chandlers, Jan. 15 at 12, Liverpool, dio.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

John P. Smith, Coventry-street, Haymarket, Middlesex, tea dealer, Jan. 13 at half-past 1, London.—*Montague Moss*, Borough-market, Borough, Surrey, fruiterer, Jan. 14 at 2, London.—*Benj. Miller*, Landport, Portsea, Southampton, mercer, Jan. 12 at half-past 12, London.—*Segismund Gans*, Essex-street, Strand, Middlesex, merchant, Jan. 12 at half-past 12, London.—*James Musto*, *Joseph Musto*, and *Robert Wm. Musto*, East London Iron Works, Cambridge-road, Mile-end, Middlesex, millwrights, Jan. 12 at 12, London.—*John Hair*, Newcastle-upon-Tyne, insurance broker, Jan. 14 at half-past 11, Newcastle-upon-Tyne.—*Samuel H. Napier* and *John Hewitson*, Liverpool, sail makers, Jan. 14 at 11, Liverpool.—*John Price*, Liverpool, licensed victualler, Jan. 14 at 11, Liverpool.—*Martha Price*, Liverpool, licensed victualler, Jan. 14 at 11, Liverpool.—*John M. Dolby*, Market Rasen, Lincolnshire, chemist, Jan. 20 at 12, Kingston-upon-Hull.—*George Tindall*, Wickenby, Lincolnshire, wheelwright, Jan. 20 at 12, Kingston-upon-Hull.—*Wm. Henry Beckett*, Kidderminster, innkeeper, Jan. 15 at 10, Birmingham.—*Wm. Granger*, Wolverhampton, Staffordshire, licensed victualler, Jan. 15 at 10, Birmingham.—*Patrick Monaghan*, Wolverhampton, Staffordshire, newspaper proprietor, Jan. 15 at half-past 10, Birmingham.—*W. P. Swift*, Bourn, Lincolnshire, grocer, Feb. 2 at half-past 10, Nottingham.—*Thomas Clulee*, Aston Manor, juxta Birmingham, victualler, Jan. 15 at 10, Birmingham.—*W. Brailsford*, Nottingham, smallware dealer, Feb. 2 at half-past 10, Nottingham.

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A TREATISE on the LAW of VENDORS and PURCHASERS. The Thirteenth Edition, with important Additions. By EDWARD SUGDEN, now LORD ST. LEONARDS. This Edition contains more than 1200 Cases in addition to those in the previous one, and restores the Work to its original character of a Practical Treatise, whilst, like the last edition, it is still a concise and practical view of the subject. The Author has bestowed immense labour in preparing the work for the press.

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GAZETTES.—Friday, *Dec.* 25.

BANKRUPTS.

JAMES EDDY, Deptford, Kent, smith, Jan. 7 at 12, and Feb. 6 at 11, London: Off. Ass. Bell; Sols. Lawrance & Co., Old Jewry-chambers.—Pet. f. Dec. 22.

HENRY JOHN LOE, Guildford, Surrey, stonemason, Jan. 5 and Feb. 4 at 1, London: Off. Ass. Johnson; Sols. Lawrance & Co., Old Jewry-chambers.—Pet. f. Dec. 23.

WILLIAM HILLS, Milton-next-Gravesend, Kent, grocer, Jan. 8 at 11, and Feb. 8 at 1, London: Off. Ass. Pennell; Sols. Hooke & Co., Philpot-lane.—Pet. f. Dec. 22.

GEORGE SCOTT, Uxbridge, Middlesex, wharfinger, Jan. 8 at 12, and Feb. 10 at 11, London: Off. Ass. Nicholson; Sols. Davies & Co., 17, Warwick-street, Regent-street.—Pet. f. Dec. 22.

WILLIAM JENNINGS, Paul-street, Finsbury, and Shoreditch, haberdasher, Jan. 5 at 11, and Feb. 2 at 1, London: Off. Ass. Lee; Sols. Lewis & Sons, 7, Wilmington-square.—Pet. f. Dec. 21.

JOHN DYNE and SYDNEY DYNE, Croydon, Surrey, builders, Jan. 15 at half-past 1, and Feb. 5 at 12, London: Off. Ass. Stansfeld; Sol. Waller, 75, Coleman-street.—Pet. f. Dec. 23.

WILLIAM HOPPERTON, Oxford-street, laceman, Jan. 6 at half-past 2, and Feb. 5 at 11, London: Off. Ass. Graham; Sol. Cox, Pinner's-hall, Old Broad-street.—Pet. f. Dec. 17.

ELI GIBSON, Wilby, Northamptonshire, builder, Jan. 9 at half-past 1, and Feb. 9 at 1, London: Off. Ass. Graham; Sols. Becke, Northampton; Becke & Metcalfe, 15, Bedford-row.—Pet. f. Dec. 22.

THOMAS TAYLOR, Hastings, Sussex, tailor, Jan. 9 at half-past 12, and Feb. 9 at 12, London: Off. Ass. Stansfeld; Sols. J. & S. Langham, 10, Bartlett's-buildings, Holborn.—Pet. f. Dec. 22.

JOHN YOUNG, Pentonville-road, King's-cross, draper, Jan. 7 at half-past 12, and Feb. 5 at 2, London: Off. Ass. Whitmore; Sols. Reed & Co., 59, Friday-street, Cheapside.—Pet. f. Dec. 18.

WILLIAM BILLINGS, Redcross-street, City, and Circus, Blackfriars-road, Surrey, bonnet-shape maker, Jan. 2 at 11, and Feb. 5 at 12, London: Off. Ass. Cannan; Sols. Tacker & Co., 28, St. Swithin's-lane.—Pet. f. Dec. 22.

SYBE IANS SEVENSTER, Mark-lane, merchant, Jan. 2 at half-past 11, and Feb. 5 at half-past 12, London: Off. Ass. Whitmore; Sols. Martin & Co., Commercial Salerooms, Mincing-lane.—Pet. f. Dec. 23.

JOSEPH HELDMANN, Gutter-lane, Cheapside, City, and Adelaide-road North, St. John's-wood, Middlesex, lace manufacturer, Jan. 7 at 1, and Feb. 5 at half-past 11, London; Off. Ass. Cannan; Sol. Empson, 61, Moorgate-street.—Pet. f. Dec. 24.

WILLIAM LLOYD, Tipton, Staffordshire, frying-pan manufacturer, Jan. 7 and 28 at half-past 11, Birmingham: Off. Ass. Kinnear; Sols. Pinchard & Shelton, Wolverhampton; Hodgson & Allen, Birmingham.—Pet. d. Dec. 24.

THOMAS ROE, Nottingham, machine builder, Jan. 14 and Feb. 4 at half-past 10, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. Dec. 24.

JOHN PORTER, Old Radford, Nottinghamshire, lace manufacturer, Jan. 14 and Feb. 4 at half-past 10, Nottingham: Off. Ass. Harris; Sol. Coope, Nottingham.—Pet. d. Dec. 24.

JAMES HASELL, Bristol, soap manufacturer, (carrying on business with William Thomas Springford), Jan. 5 and Feb. 2 at 11, Bristol: Off. Ass. Acraman; Sols. Brittan & Son, Bristol.—Pet. f. Dec. 22.

THOMAS TAYLOR and JOHN SEAGER, Soundwell, near Kingswood, Gloucestershire, indigo manufacturers, Jan. 4 and Feb. 1 at 11, Bristol: Off. Ass. Miller; Sols. Henderson & Howard, Bristol.—Pet. f. Dec. 3.

WILLIAM HORSFALL, Langfield, Halifax, Yorkshire, cotton spinner, Jan. 11 at 12, and Feb. 8 at 11, Leeds: Off. Ass. Hope; Sols. Eastwood, Todmorden; Blackburn, Leeds.—Pet. d. Dec. 11.

ROBERT HENRY ANDERSON, York, scrivener, Jan. 8 and Feb. (and *not* Jan., as before advertised) 12 at 11, Leeds: Off. Ass. Young; Sol. Blackburn, Leeds.—Pet. d. and f. Dec. 17.

ROBERT EASTBURN, Halifax, Yorkshire, dyer, Jan. 8 and Feb. 12 at 11, Leeds: Off. Ass. Young; Sols. Rudd & Kenny, Halifax; Bond & Barwick, Leeds.—Pet. d. and f. Dec. 22.

CHRISTOPHER TOPHAM and TIMOTHY TOPHAM, Wakefield, Yorkshire, dyers, (carrying on business under the style or firm of C. & T. Topham), Jan. 8 and Feb. 12 at 11, Leeds: Off. Ass. Young; Sol. Barret, Leeds.—Pet. d. Dec. 21.

EDWARD REASTON, Filey, Yorkshire, lodging-house keeper, Jan. 18 and Feb. 16 at 11, Leeds: Off. Ass. Hope; Sols. Anderson, York; Bond & Barwick, Leeds.—Pet. d. Dec. 23.

EDWARD LINDSEY BAKER, Liverpool, commission agent, Jan. 8 and 29 at 11, Liverpool: Off. Ass. Turner; Sols. Forshaw & Goodman, and Conway, Liverpool.—Pet. f. Dec. 18; d. Dec. 19.

JOSEPH ECCLES, EDWARD ECCLES, and ALEXANDER ECCLES, Liverpool, cotton brokers, (lately carrying on business together under the style or firm of Joseph Eccles & Co.), Jan. 8 and Feb. 5 at 11, Liverpool: Off. Ass. Bird; Sols. Bardswell & Co., Liverpool.—Pet. d. and f. Dec. 22.

JAMES HOWARD and CHARLES HOWARD, Macclesfield, Cheshire, silk manufacturers, (trading under the firm of James Howard & Co.), Jan. 4 and Feb. 1 at 12, Manchester: Off. Ass. Fraser; Sols. Parrott & Co., Macclesfield.—Pet. f. Dec. 17.

JAMES BROWN, Whaley Bridge and Buxton, Derbyshire, innkeeper, Jan. 12 and Feb. 2 at 11, Manchester: Off. Ass. Fraser; Sol. Andrew, Manchester.—Pet. f. Dec. 18.

WILLIAM DEAN and JAMES DEAN, Habergham Eaves, near Burnley, Lancashire, stonemasons, Jan. 5 and Feb. 2 at 12, Manchester: Off. Ass. Pott; Sols. Cobbett & Wheeler, Manchester.—Pet. f. Dec. 18.

GEORGE HAMILTON, Bacup, Lancashire, cotton spinner, Jan. 5 and Feb. 2 at 12, Manchester: Off. Ass. Pott; Sols. Wood & Jackson, Rochdale.—Pet. f. Dec. 18.

WILLIAM ROBINSON URWIN, Newcastle-upon-Tyne, chain merchant, Jan. 8 at half-past 11, and Feb. 19 at 1, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hodge & Harle, Newcastle-upon-Tyne; Sudlow & Co., Bedford-row.—Pet. f. Dec. 8.

MEETINGS.

Thomas Francis, Lamb-place, Kingsland-road, builder, Jan. 6 at 12, London, last ex.—*John Hendry*, Weymouth-street, Hackney-road, vat maker, Jan. 6 at half-past 2, London, last ex.—*Benjamin Grut*, Sambrook-court, Basinghall-street, London, merchant, Jan. 7 at 11, London, aud. ac.—*Mary Ann Akers*, Brizemorton, Oxfordshire, baker, Jan. 8 at 12, London, aud. ac.—*Henry Ingall*, Crutched-friars, wine merchant, Jan. 5 at 2, London, aud. ac.—*Jeremiah Self*, Bishop's Waltham, Southampton, innkeeper, Jan. 5 at 1, London, aud. ac.—*William Hoe*, Bishopsgate-street Without, stationer, Jan. 22 at 12, London, div.—*Castle Brangwin* the younger, Blackheath-road, Greenwich, and High-street, Deptford, Kent, grocer, Jan. 19 at 11, London, div.—*J. Cappel*, Gutter-lane, City, outfitting warehouseman, Jan. 18 at half-past 12, London, div.—*Edmund White*, Mark-lane, City, Stratford, Essex, and Wapping, Middlesex, corn merchant, Jan. 15 at 2, London, div.—*Charles Duvall*, Crosby-row, Walworth-road, Surrey, and Queen's-buildings, Knightsbridge, Middlesex, provision merchant, Jan. 15 at half-past 1, London, div.—*Thomas Nash* the younger, Great Dover-street, Southwark, brushmaker, Jan. 15 at 1, London, div.—*Robert M'Naught*, Bushey Heath, Hertfordshire, linendraper, Jan. 15 at 1, London, div.—*Henry Carter*, Worthing, Sussex, tailor, Jan. 15 at half-past 1, London, div.—*John Sexby*, Vauxhall-walk, Lambeth, builder, Jan. 15 at 2, London, div.—*Samuel Lovelock* and *Thomas Forster*, Dowgate-hill, London, and Streatham, Surrey, India rubber manufacturers, Jan. 16 at 11, London, div.—*James Curtis*, Gresham, Norfolk, tailor, Jan. 16 at 11, London, div.—*Thomas Stenhouse*, Friday-street, Cheapside, warehouseman, Jan. 16 at half-past 11, London, div.—*John Fisher Goude*, Cheapside, apothecary, Jan. 16 at 12, London, div.—*J. B. Towse*, Lawrence Pountney-lane, City, shipowner, Jan. 16 at half-past 11, London, div.—*George Sandham*, Carr Mill, near Newchurch, Rossendale, Lancashire, cotton spinner, Jan. 8 at 12, Manchester,

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THE JURIST.

LONDON, JANUARY 2, 1858.

(*Concluded from p.* 495).

In the Procedure Act of 1854 the 1st section gives power, by consent *in writing* of the parties, to try questions of fact before a judge sitting alone; and on this section a decision, after full discussion, has taken place; and the whole length that the Courts have gone is to resolve that the writing is not material, it being indisputable that the consent was actually given: and surely it must be quite unnecessary to insist upon a preliminary form, which the Legislature only prescribed for the purpose of facilitating and ascertaining the proof of consent, if that proof is sufficiently ascertained by other means. (*Andrews* v. *Elliott*, 1 Jur., N. S., part 1, p. 1046; 2 Jur., N. S., part 1, p. 663, in error). It will be seen that the consent here was not wanted to give jurisdiction; the judge had a general jurisdiction to try the species of case in question. Another novel effect is given to consent by sect. 15, enabling parties by consent to enlarge the time for an arbitrator making his award. Then, by consent, the parties may arrange that error shall not be brought on a special case to which they have agreed. (Sect. 32). But more than one decision lays down the meaning to be, that this section should not have a retrospective operation; shewing no tendency, therefore, in the Courts to enlarge the sphere of consent. Another point in which a considerable power has been attributed to consent is this. It has been held that the Courts, in construing the Bills of Exchange Act, will not, without the consent of parties, assume the power of granting a rule to set aside a judge's order made under that act, so as to be returnable at chambers on a day after the last day of term. (*Pollock* v. *Turnock*, 3 Jur., N. S., part 1, p. 92). Perhaps the greatest extent to which the operation of consent has yet been carried occurs in cases arising under the Interpleader Act, (which, however, are not, properly speaking, cases of consent of *parties*); for in some cases it has been considered, that where a judge had done that which was in *excess* of his statutory jurisdiction, the objection has been got over on the ground of the constructive consent which the plaintiff and claimant to the goods had given to his exercise of a summary jurisdiction. (*Harrison* v. *Wright*, 13 M. & W. 816; see per Parke, B., in *Gosset* v. *Howard*, 10 Q. B. 445; *Carlewis* v. *Pocock*, 5 Dowl. 381). And a judge's order made by consent cannot, *it seems*, be appealed from. (*Hall* v. *West*, 1 Dowl. & L. 412; *Shortridge* v. *Young*, Id. 416). However this may be, it is by no means easy to say what is the proper effect of a judge's order made by consent in a matter beyond his authority. It is easier to say what it is not; for it is not an award, for it wants the formalities of an award, and is bad, as such, for want of the stamp. If it is an order, can it be made a rule of Court, (being beyond the legal competence of the judge to make), so that execution may issue on it, under the 1 & 2 Vict. c. 110, s. 18? Or, supposing that the parties who had agreed to it could not be heard to impeach it, would it be valid to affect the interests of third parties? (See *Gibbs* v. *Flight*, 13 C. B. 803; 17 Jur., part 1, p. 1034). The mode of giving consents to judges' orders for signing judgments is regulated by the Practice Rules of Hilary Term, 1853, rr. 155, 156, 157, which shew the determination of the judges to confine within narrow limits the operation of consent, and to make provision against undue extension of the system, and its perversion to fraudulent purposes. This is in accordance with the spirit of the provision relative to the consent of a bankrupt trader to an order, under the 12 & 13 Vict. c. 106, s. 136, and the decisions upon it. (*Acraman* v. *Herniman*, 16 Q. B. 998. See also *Braine* v. *Manson*, 9 Dowl. 748; *Stevens* v. *Miller*, 3 Man. & G. 228; *Brooks* v. *Hodson*, 7 Man. & G. 529; and *Wilkins* v. *Casey*, 6 Jur. 807). It has also been decided that an action will not lie for disobedience to a judge's order, when made by consent, any more than when made hostilely. (*Hookpayton* v. *Bussell*, 10 Exch. 24). And the case is not altered by the circumstance of there being contained in the order an undertaking by the parties, founded on a good consideration, contrary to an expression of opinion attributed to the present Lord Wensleydale in *Wentworth* v. *Bullen*, (9 B. & Cr. 840); nor is a consent, indorsed upon a judge's summons, without either party ever having attended at chambers, or any order having been drawn up, of any avail at all: it does not prevent either party from taking any steps, just as if no such summons had been taken out or indorsed. (*Joddrell* v. ——, 4 Taunt. 253). Nor has a consent, at the trial of an action of detinue, the effect, under the Common-law Procedure Act of 1854, sect. 78, of giving the court or a judge jurisdiction which they had not otherwise. (*Chilton* v. *Carrington*, 1 Jur., N. S., part 1, p. 477). In fact, in that case it was found that the consent of the parties at the trial to discharge the jury from finding the value of the chattels made the record perfectly unmanageable, and the consent, though absolute, was not held to preclude the parties to object to the judge's order which had been made in pursuance of it. On the other hand, the consent of the parties to take a verdict is always held to estop either of them from asking for a certificate for costs, the answer in such cases being, "You have agreed that the verdict shall be entered in a particular way: we cannot make a new agreement for you." (See 15 C. B. 740, 741). Another description of cases may be adduced in proof of the limited influence which the Courts assign to consent of parties. Where a defendant has pleaded several pleas, on which issues are joined, and it appears at the trial that the verdict must be for the defendant on one plea, which goes to the whole cause of action, it is common for the parties to consent to have the jury discharged as to the other issues. In such case the defendant is entitled to the general costs of the cause, but neither party has the costs of the issues on which they have agreed that the jury shall be discharged; (*Vallance* v. *Adams*, 2 Dowl. 118; *Allenby* v. *Proudlock*, 4 Ad. & El. 326); and although *in such a case*, viz. where the defendant is entitled to his verdict on an issue going to the whole, the judge, it would seem, (see Gray on Costs, 288, 289), has no power to discharge a jury from deciding the other issues without consent of parties, yet this is by reason that the plaintiff has a right to the costs of the remaining issues, in case they are found for him, (*Spencer* v. *Hamerton*, 4 Ad. & El. 418), by the statute of Anne, and a right to insist to go on and have the jury's opinion on those remaining issues, by virtue of the general right the suitor has of insisting that his case shall be brought to a legal conclusion. There is no doubt, however, of the authority of a judge to discharge the jury generally, where it has become manifest that they cannot agree in any verdict; in which case also each party pays his own costs; (*Seeley* v. *Powers*, 3 Dowl. 372; *Waite* v. *Spurgin*, 4 Dowl. 575; *Browne* v. *Clarke*, 12 M. & W. 25); and the fact of the consent of parties being given does not make any difference, nor amount to an agreement to refer the right to costs to the ultimate result of a fresh trial, (*Bostock* v. *The North Staffordshire Railway Company*, 16 Jur., part 1, p. 726), nor to a termination of the suit. (*Everett* v. *Youells*, 3 B. & Ad. 349). Nor does the consent of the plaintiff at the outset of a trial, that the damages, if any, should be merely nominal, preclude him from applying for a new trial, (his consent having been given on the supposition and expectation that all the issues should be tried), if only two out of three issues were decided; and the jury, being unable to agree on the third, (which was material), had been discharged by the judge, on the illness of one of them, from giving a verdict on it. (*Tinkler* v. *Rowland*, 4 Ad. & El. 868). So, a party consenting to withdraw a juror is held to the consequences, and must pay his own costs, even in cases of hardship. (*Hammond* v. *Thorpe*, 1 C., M., & R. 64).

On the whole, it is submitted, there is nothing in the late legislation, or in the interpretation which the Courts have put upon any of the provisions of it, to indicate any intention or leaning towards an increased power in parties to give jurisdiction, or do or submit to anything in itself illegal, by consent, beyond what they have ever possessed.

PROSPECTUS OF THE LECTURES

To be delivered during the ensuing Hilary Educational Term by the several Readers appointed by the Inns of Court.

Constitutional Law and Legal History.

The Public Lectures to be delivered by the Reader on Constitutional Law and Legal History will comprise the following subjects:—

The Reign of George II—The Progress of our Jurisprudence, the State Trials, and Debates in Parliament. The Reader will then trace the Origin and Progress of our Constitution through the Reigns of the Plantagenets, the Tudors, and the Stuarts.

In his Private Classes the Reader will follow the same course.

Books:—Tindal or Belsham's History of George II—Blackstone's Commentaries, by Kerr, vols. 1 and 4—Political Register and Annual Register during the Period—Parliamentary History—Hallam's Constitutional History—Statute Book—Preface to Gilbert on Uses, by Sugden—Bracton's Treatise—Matthew Paris—Reeve's History of the English Law—Sullivan's Lectures — Fortescue de laudibus Legum Angliæ. (Amos's edition)—Millar's History of the Constitution—Creasy on the Constitution.

Equity.

The Reader on Equity proposes to deliver, during the ensuing Educational Term, a Course of Nine Lectures on the following subjects:—

I.—On the General Principles adopted by Courts of Equity with reference to Trusts, and to Equitable Incumbrances on Real and Personal Estate.

II.—On Notice and Registration.

III.—On the Relief afforded in Equity against Penalties and Forfeitures.

IV.—On the Nature of Legal Mortgages.

V.—On the Equitable Rights and Remedies of Mortgagors and Mortgagees.

VI.—On the Jurisdiction of the Court over Charities.

The Reader will continue with his Senior and Junior Classes the general courses of Equity already commenced. He will also continue in the Senior Class, and commence in the Junior, to explain the leading rules of Pleading in Equity from the work of Lord Redesdale.

THE LAW OF REAL PROPERTY.

The Reader on the Law of Real Property proposes to deliver, in the ensuing Educational Term, a Course of Nine Public Lectures on the following subjects:—

I.—The Insolvency Acts, so far as they affect the Law of Real Property.

II.—On Conditions of Sale.

III.—A Comparison between the Old and New Law with respect to Wills.

IV.—The Stats. 1 Vict. c. 26, and 15 & 16 Vict. c. 24.

V.—The Decisions upon those Statutes.

In his Private Classes the Reader on the Law of Real Property will refer more particularly to the cases cited in the Public Lectures. He will also endeavour to go through a complete Course of Real Property Law, using the work of Mr. Joshua Williams as a text-book.

JURISPRUDENCE AND THE CIVIL LAW.

The Reader on Jurisprudence and the Civil Law proposes to deliver, in the course of the ensuing Educational Term, Nine Public Lectures on the following subjects:—

I.—The Influence of certain Theories of the Roman Jurisconsults on International Law, and on the existing Relations of Sovereign States to each other.

II.—Crimes and Delicts.

III.—Ancient Codes: their Nature and Influence.

IV.—The Conception of Equity, and the Forms it has assumed in various Systems of Jurisprudence.

V.—The Development of the Roman Law.

With his Private Class the Reader will proceed through the principal departments of Roman Law, using as his text-book the Systema Juris Romani Hodie Usitati, Latin edition, of Mackeldey, (beginning at p. 132).

The Reader will endeavour to form a Second Class for the study of the Elements of Roman Law. This latter class is intended for gentlemen who have no previous acquaintance with the Roman Jurisprudence. It will read the Institutes of Justinian, beginning at their commencement.

COMMON LAW.

The Reader on Common Law proposes to deliver, during the ensuing Educational Term, Nine Public Lectures, the first Six of which will be on the Law of Contracts, and the three remaining Lectures on the Law of Bailments, as under:—

THE LAW OF CONTRACTS.

Lecture I.—On Contracts generally: their Nature and Classification.

Lecture II.—On Special Contracts.

Lecture III.—On Contracts between Landlord and Tenant, and the Remedies incident thereto.

Lecture IV.—On Simple Contracts and the Ingredients in a Right of Action ex Contractu.

Lecture V will be devoted to an inquiry respecting the Nature of Implied Promises.

Lecture VI.—A general view will, in this Lecture, be taken of Mercantile Contracts and Remedies.

THE LAW OF BAILMENTS.

Lecture VII.—The Nature and Classification of Bailments, with especial reference to the case of *Coggs* v. *Barnard*, (Ld. Raym. 909), will be considered.

Lectures VIII and IX will be devoted to an Examination of the Law applicable to various classes of Bailees, Common Carriers, Innkeepers, and others.

With his Private Class the Reader will consider the Law of Contracts and of Bailments, according to the plan above indicated, illustrating the subjects treated of by reference to recent cases, and to the following works:—Smith's Mercantile Law (ed. by Dowdeswell) and Leading Cases, 4th ed.; Story on Bailments, 5th ed.; Broom's Commentaries on the Common Law.

By order of the Council,
(Signed) RICHARD BETHELL, Chairman.

Court Papers.

EQUITY SITTINGS, HILARY TERM, 1858.

Court of Chancery.

Before the LORD CHANCELLOR.

At Westminster.

Monday	*Jan.* 11	Appeal Motions and Appeals.

At Lincoln's Inn.

Tuesday	12	Petitions and Appeals.
Wednesday	13	Appeals.
Thursday	14	
Friday	15	
Saturday	16	
Monday	18	
Tuesday	19	
Wednesday	20	Appeal Motions and Appeals.
Thursday	21	Appeals.
Friday	22	
Saturday	23	
Monday	25	
Tuesday	26	
Wednesday	27	Appeal Motions and Appeals.
Thursday	28	Appeals.
Friday	29	
Saturday	30	Petitions and Appeals.
Monday	*Feb.* 1	Appeal Motions and Appeals.

Before the LORDS JUSTICES.

At Westminster.

Monday	*Jan.* 11	Appeal Motions.

At Lincoln's Inn.

Tuesday	12	Appeal Motions and Appeals.
Wednesday	13	Appeals.
Thursday	14	
Friday	15	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday	16	Appeals.
Monday	18	
Tuesday	19	
Wednesday	20	Appeal Motions and Appeals.
Thursday	21	Appeals.
Friday	22	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday	23	Appeals.
Monday	25	
Tuesday	26	
Wednesday	27	Appeal Motions and Appeals.
Thursday	28	Appeals.
Friday	29	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday	30	Appeals.
Monday	*Feb.* 1	Appeal Motions and Appeals.

Notice.—The days (if any) on which the Lords Justices shall be engaged in the full Court are excepted.

Before the Right Hon. the MASTER OF THE ROLLS.

At Westminster.

Monday	*Jan.* 11	Motions.

At Chancery-lane.

Tuesday	12	General Petition-day.
Wednesday	13	General Paper.
Thursday	14	
Friday	15	
Saturday	16	
Monday........	18	
Tuesday........	19	
Wednesday	20	Motions.
Thursday	21	General Paper.
Friday	22	
Saturday	23	
Monday........	25	
Tuesday........	26	
Wednesday	27	Motions.
Thursday	28	General Paper.
Friday	29	
Saturday	30	General Petition-day.
Monday .... *Feb.*	1	Motions.

Short Causes, Short Claims, Consent Causes, Unopposed Petitions, and Claims every Saturday. The Unopposed Petitions to be taken first.

Notice.—Unopposed Petitions must be presented, and copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard.

Before Vice-Chancellor Sir RICHARD T. KINDERSLEY.

At Westminster.

Monday.... *Jan.*	11	Motions.

At Lincoln's Inn.

Tuesday........	12	General Paper.
Wednesday	13	
Thursday	14	
Friday	15	Petitions (unopposed first).
Saturday	16	Short Causes, Short Claims, and General Paper.
Monday........	18	General Paper.
Tuesday........	19	
Wednesday	20	Motions and General Paper.
Thursday	21	General Paper.
Friday	22	Petitions (unopposed first).
Saturday	23	Short Causes, Short Claims, and General Paper.
Monday........	25	General Paper.
Tuesday........	26	
Wednesday	27	Motions and General Paper.
Thursday	28	General Paper.
Friday	29	Petitions (unopposed first).
Saturday	30	Short Causes, Short Claims, and General Paper.
Monday .... *Feb.*	1	Motions and General Paper.

Before Vice-Chancellor Sir J. STUART.

At Westminster.

Monday.... *Jan.*	11	Motions.

At Lincoln's Inn.

Tuesday........	12	General Paper.
Wednesday	13	
Thursday........	14	
Friday	15	Petitions and General Paper.
Saturday	16	Short Causes, Claims, and General Paper.
Monday........	18	General Paper.
Tuesday........	19	
Wednesday	20	Motions and General Paper.
Thursday	21	General Paper.
Friday	22	Petitions and General Paper.
Saturday	23	Short Causes, Claims, and General Paper.
Monday........	25	General Paper.
Tuesday........	26	
Wednesday	27	Motions and General Paper.
Thursday	28	General Paper.
Friday	29	Petitions and General Paper.
Saturday	30	Short Causes, Claims, and General Paper.
Monday .... *Feb.*	1	Motions.

Before Vice-Chancellor Sir W. P. WOOD.

At Westminster.

Monday.... *Jan.*	11	Motions.

At Lincoln's Inn.

Tuesday........	12	General Paper.
Wednesday	13	
Thursday	14	
Friday	15	
Saturday	16	Petitions, Short Causes, Claims, and General Paper.
Monday........	18	General Paper.
Tuesday........	19	
Wednesday	20	Motions and General Paper.
Thursday	21	General Paper.
Friday	22	
Saturday	23	Petitions, Short Causes, Claims, and General Paper.
Monday........	25	General Paper.
Tuesday........	26	
Wednesday	27	Motions and General Paper.
Thursday	28	General Paper.
Friday	29	
Saturday	30	Petitions, Short Causes, Claims, and General Paper.
Monday...... *Feb.*	1	Motions and General Paper.

Notice.—Claims will be placed in the paper after Short Causes, on each Saturday, in precedence of the General Paper.

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aud. ac.; Jan. 15 at 12, div.—*Edwin Peeke*, Torquay, Devonshire, builder, Jan. 20 at 11, Exeter, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

J. Andrewartha, Alverstoke, grocer, and Portsea, Hampshire, builder, Jan. 15 at 12, London.—*Thomas Day*, Birch, Essex, victualler, Jan. 18 at half-past 1, London.—*Jacob M. Van Winkle*, Poultry, City, tavern keeper, Jan. 15 at 2, London.—*Stephen Froud*, Great Western-road, Paddington, Middlesex, builder, Jan. 15 at half-past 2, London.—*F. B. Coleman*, Queen's-buildings, Brompton, linendraper, Jan. 15 at 1, London.—*Robert Alexander*, Crawford-street, Camberwell, Surrey, broker, Jan. 15 at 1, London.—*Thos. Taylor*, Blackheath, Kent, grocer, Jan. 15 at 1, London.—*Mary White*, High-street, Poplar, out of business, Jan. 16 at 11, London. —*James Melrose* and *Thomas E. Hussey*, Hatton-garden, Middlesex, and Tividale, near Dudley, Staffordshire, boiler makers, Jan. 16 at 11, London.—*John Faith*, Cambridge-road, Mile-end, provision merchant, Jan. 15 at half-past 11, London.—*John Martin*, Strand, Middlesex, victualler, Jan. 15 at 11, London.—*Wm. Harding*, Lewisham and Margate, Kent, builder, Jan. 15 at 11, London.—*John Stokes*, St. George-street, St. George-in-the-East, Middlesex, corn chandler, Jan. 15 at half-past 1, London.—*W. Pemberton*, Barge-yard-chambers, Bucklersbury, commission agent, Jan. 15 at 1, London.—*Jas. Woods*, Conduit-street, Hanover-square, Middlesex, tailor, Jan. 15 at half-past 12, London.—*H. Sibley*, Birchin-lane, Cornhill, mining agent, Jan. 15 at 11, London.—*Maurice Evans* and *John William Hoare*, Great St. Helens, City, and Trinity-wharf, Rotherhithe, Surrey, export wine merchants, Jan. 19 at 11, London.—*Richard Tomlin*, Castle-street, Leicester-square, licensed victualler, Jan. 15 at 11, London.—*Medbury Joyce*, St. Neots, Huntingdonshire, timber merchant, Jan. 19 at half-past 11, London.—*Henry Bastow*, Manchester, mercer, Jan. 15 at 12, Manchester.—*Thomas Marples*, Litchurch, Derbyshire, mill-stone manufacturer, Feb. 2 at half-past 10, Nottingham.—*Charles Wm. Kerby*, Nottingham, contractor, Feb. 2 at half-past 10, Nottingham.—*James Farnsworth*, Codnor, Heanor, Derbyshire, joiner, Feb. 9 at half-past 10, Nottingham.—*Thos. Bingham*, Holbeach, Lincolnshire, draper, Feb. 9 at half-past 10, Nottingham. — *Robert True*, Market Deeping, Lincolnshire, butcher, Feb. 2 at half-past 10, Nottingham.—*Benjamin Fletcher*, Burton, Nottingham, timber merchant, Feb. 9 at half-past 10, Nottingham.

To be granted, unless an Appeal be duly entered.

James Edgar, Bury St. Edmunds, Suffolk, draper.—*Thos. Hart*, Charlotte-street, Blackfriars, hat manufacturer.—*Wm. Chapping*, Tring, Hertfordshire, straw-hat manufacturer.—*John Noakes*, Park-place, Kennington-cross, linendraper.—

Frederick Lewis, Surrey-place, Kennington-park, surgeon.—*Caleb Pizzie*, Saffron Walden, Essex, and Windsor-terrace, City-road, Middlesex, carpet manufacturer.—*James Curtis*, Gresham, Norfolk, tailor.—*Charles Dorrett*, Serle-street, Lincoln's-inn, dealer in wines.—*Thomas Nathaniel Ashman*, Yeovil, Somersetshire, currier.—*Jas. Crocker*, Okehampton, Devonshire, ironmonger.—*Wm. Finch* the elder, Tipton, Staffordshire, paper maker.—*Geo. Young*, Old-street-road, Middlesex, victualler.—*W. E. Hunt*, Strand, Middlesex, licensed victualler.—*Wm. Pinnock*, St. James's-terrace, Harrow-road, Middlesex, corn factor.—*John F. Goodered*, Piccadilly, Middlesex, wine merchant.—*S. W. Anthony*, Liverpool, commission merchant.—*Joseph Daniel*, Manchester, builder.—*W. Wood*, Stalybridge, Lancashire, hardware manufacturer.—*S. Bache* and *S. T. Bache*, Birmingham, jewellers.—*W. Hirst*, Derby, silk manufacturer.—*John Sutcliffe*, Apperley Bridge, Yorkshire, dyer.—*Wm. Conyer* and *Joseph Conyer*, Dewsbury, Yorkshire, shoddy dealers.—*George W. Bradbee* the elder, Newgate-street, City, fringe manufacturer.

PETITION ANNULLED.

Savas Caracazzani, Manchester, merchant.

TUESDAY, *Dec.* 29.

BANKRUPTS.

JOHN BARBER and FREDERICK ROSENAUER, Hammond-court, Mincing-lane, City, general merchants, Jan. 14 at 1, and Feb. 18 at 12, London: Off. Ass. Bell; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. Dec. 24.

JONATHAN HILLS and ROBERT HILLS, Gravesend and Dartford, Kent, bankers, (trading under the style or firm of Jonathan Hills & Son), Jan. 19 at half-past 1, and Feb. 9 at half-past 12, London: Off. Ass. Graham; Sol. Wright, 123, Chancery-lane.—Pet. f. Dec. 19.

WILLIAM CULLEMORE, Upper Seymour-street, Euston-square, draper, Jan. 11 at 12, and Feb. 17 at 11, London: Off. Ass. Nicholson; Sol. Cox, Pinner's-hall, Old Broad-street.—Pet. f. Dec. 17.

PETER M'LACHLAN, Birchin-lane, Cornhill, City, and St. George's-terrace, Kilburn, Middlesex, baker, Jan. 11 at 1, and Feb. 15 at 12, London: Off. Ass. Pennell; Sol. Davies, 79, Basinghall-street.—Pet. f. Dec. 26.

JOHN GREEN and WILLIAM BAKER, Newgate-street, City, stay manufacturers, (trading as J. Green & Co.), Jan. 13 and Feb. 17 at 12, London: Off. Ass. Nicholson; Sols. Sole & Co., 68, Aldermanbury.—Pet. f. Dec. 23.

WILLIAM WELLSTED and HENRY WELLSTED, Molyneux-street and Shouldham-street, Bryanstone-square, Middlesex, cabinet makers, Jan. 14 at 2, and Feb. 16 at 12, London: Off. Ass. Edwards; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. Dec. 29.

WILLIAM HENRY WATKINS, Portsea, Hampshire, innkeeper, Jan. 12 at 3, and Feb. 9 at 1, London: Off. Ass. Edwards; Sols. Archibald Low, Portsea; Edwin Low, 65, Chancery-lane.—Pet. f. Dec. 28.

JAMES WATES, Gravesend, Kent, hotel keeper, Jan. 12 at half-past 2, and Feb. 9 at 12, London: Off. Ass. Lee; Sols. Sharland, Gravesend; Wilkinson & Stevens, Nicholas-lane, London.—Pet. f. Dec. 22.

ARTHUR JACKSON, Peterborough, Northamptonshire, corn merchant, Jan. 7 at 12, and Feb. 12 at 1, London: Off. Ass. Whitmore; Sols. Deacon & Taylor, Peterborough; Lawrance & Co., 14, Old Jewry-chambers, London.—Pet. f. Dec. 18.

THOMAS ROLLING, Palterton, Derbyshire, cattle dealer, Jan. 9 and Feb. 6 at 10, Sheffield: Off. Ass. Brewin; Sols. Cutts, Chesterfield; Smith & Burdekin, Sheffield.—Pet. d. Dec. 15.

ROBERT BLOW and JOHN BLOW, Great Grimsby, Lincolnshire, corn merchants, (trading under the name, style, or firm of Robert & John Blow), Jan. 20 and Feb. 17 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sol. Veal, Great Grimsby.—Pet. d. Dec. 23.

GEORGE LIVERMORE SHORLAND, Hulme, Manchester, ironmonger, Jan. 12 at 1 and Feb. 9 at 12, Manchester: Off. Ass. Pott; Sols. Deakin & Dent, Wolverhampton; Owen & Co., Manchester.—Pet. f. Dec. 26.

SILAS TETLOW, Oldham, Lancashire, cotton-waste dealer, Jan. 13 and Feb. 3 at 12, Manchester: Off. Ass. Pott; Sol. Sutton, Manchester.—Pet. f. Dec. 23.

BENJAMIN HAIGH, Dukinfield, Cheshire, engine maker, Jan. 12 and Feb. 9 at 12, Manchester: Off. Ass. Fraser; Sol. Gartside, Ashton-under-Lyne.—Pet. f. Dec. 23.

MEETINGS.

Thomas William Gilbert, Railway-place, Fenchurch-street, London, and Victoria-wharf, Narrow-street, Limehouse, Middlesex, sailmaker, Jan. 20 at 3, London, last ex. and div.—*Thomas John Marshall*, Bishopsgate-street Without, engineer, Jan. 9 at 1, London, last ex.—*Thomas Gutteridge*, Wilton, near Salisbury, innkeeper, Jan. 9 at 12, London, last ex.—*Isaac Rose*, Tooley-street, Southwark, jeweller, Jan. 10 at 1, London, aud. ac.—*James Musto*, *Joseph Musto*, and *Robert William Musto*, East London Ironworks, Cambridge-road, Mile-end, millwrights, Jan. 12 at 12, London, aud. ac.—*Jas. Cappel*, Gutter-lane, City, outfitting warehouseman, Jan. 11 at 2, London, aud. ac.—*Wm. Edwards*, Norland-square, Notting-hill, merchant, Jan. 8 at 11, London, aud. ac.—*Jas. Clarke*, Bridge-wharf, Kingsland, timber merchant, Jan. 8 at 12, London, aud. ac.—*Edw. Miles Tayler*, Lower Thames-street, wine merchant, Jan. 12 at 1, London, aud. ac.—*Chas. Mosley* and *John Marlow Mosley*, Catherine-street, Strand, new agents, Jan. 14 at 11, London, aud. ac.; Jan. 19 at 2, div.—*Frederick Collins*, Drury-lane, Middlesex, pawnbroker, Jan. 14 at 11, London, aud. ac.—*Samuel Clare*, Ashton-under-Lyne, Lancashire, grocer, Jan. 11 at 12, Manchester, aud. ac.—*Wm. Tyler* and *John Tyler*, King's Bromley, Staffordshire, millers, Jan. 22 at half past 11, Birmingham, aud. ac.; Jan. 23 at half-past 11, div.—*David Morriss*, Wisbeach, Cambridgeshire, grocer, Jan. 20 at 1, London, div.—*Frederick Bracher*, Old Jewry, City, tailor, Jan. 22 at 2, London, div.—*Wm. Joseph Sears* and *James Sears*, Ivy-lane, Paternoster-row, printers, Jan. 22 at half-past 1, London, div.—*Catherine Dixon*, Lymington, Southampton, tailor, Jan. 22 at 2, London, div.—*Robt. Feast*, Finsbury-pavement and Little Moorfields, City, Italian warehouseman, Jan. 22 at 2, London, div.—*T. Hart*, Charlotte-street, Blackfriars, hat manufacturer, Jan. 22 at half-past 1, London, div.—*Frederick Lewis*, Surrey-place, Kennington-park, surgeon, Jan. 22 at 1, London, div.—*Peter Lawrence*, Eastcheap, City, fruit dealer, Jan. 22 at 1, London, div.—*John Peacock*, Manchester, starch manufacturer, Jan. 15 at 12, Manchester, aud. ac.; Jan. 21 at 12, div.—*Joseph Bradbury Robinson*, Macclesfield, Cheshire, hosier, Jan. 13 at 12, Manchester, aud. ac.; Jan. 20 at 12, div.—*James Iliffe*, Birmingham, commission agent, Jan. 20 at half-past 10, Birmingham, div.—*Edw. Rogers*, Oswestry, Shropshire, draper, Jan. 18 at half-past 10, Birmingham, div.—*T. Bell*, Jarrow, Durham, alkali manufacturer, Jan. 21 at 11, Newcastle-upon-Tyne, div.—*John Crosthwaite*, Liverpool, merchant, Jan. 21 at 11, Liverpool, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

A. Shuckworth Francis and *Geo. Austen*, Cheapside, City, warehousemen, Jan. 22 at 11, London.—*W. Bennett*, Great Newport-street, Newport-market, Middlesex, grocer, Jan. 22 at 1, London.—*Joseph Willmott* and *John Hartley*, Essex-street, Kingsland-road, Middlesex, and Battersea, Surrey, sawyers, Jan. 22 at 12, London.—*P. Kenway*, Three King-court, Lombard-street, commission agent, Jan. 22 at 11, London.—*Thomas Blaber Daniell*, High-street, Poplar, Middlesex, founder, Jan. 23 at 12, London.—*Tertius D'Oyley Pain*, Medical-hall, King-street, Hammersmith, Middlesex, chemist, Jan. 19 at 1, London.—*George Vincent*, Mistley, Essex, beer-house keeper, Feb. 3 at 12, London.—*Anthony Marsden* and *Wm. Marsden*, High-street, Islington, shawl warehousemen, Jan. 20 at 12, London.—*John Ellison*, Bread-street, Cheapside, City, and Harley-street, Cavendish-square, Middlesex, warehouseman, Jan. 22 at 1, London.—*Hugh Roberts*, Gorad, near Holyhead, Anglesey, corn dealer, Jan. 20 at 12, Liverpool.—*T. Richardson Hyde*, Chester, clothier, Jan. 22 at 1, Liverpool.—*John Walker*, Liverpool and Rochdale, Lancashire, tobacconist, Jan. 22 at 11, Liverpool.—*John Mackay*, Liverpool, timber merchant, Jan. 21 at 11, Liverpool.—*James Mackay*, Liverpool, timber merchant, Jan. 21 at 11, Liverpool.—*Joseph Lee*, Wolverhampton, Staffordshire, engine manufacturer, Jan. 18 at 1, Birmingham.

To be granted, unless an Appeal be duly entered.

Edward Huxley, Old Cavendish-street, Middlesex, surgical bandage maker.—*Richard Palmer*, Brighton, plumber.—*Meldrum Christie*, Oxford-street, Middlesex, baker.—*John Lawrence Harvey*, Chichester-place, King's-cross, draper.

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REPORT of the DIRECTORS of the CLERICAL, MEDICAL, and GENERAL LIFE ASSURANCE SOCIETY, presented at the Annual General Meeting, held at the Society's Office, No. 13, St. James's-square, London, FRIDAY, the 27th November, 1857.

It will be in the recollection of the Proprietors that at two Extraordinary General Meetings, held on the 1st and 28th January last, the period for holding the Annual Meetings was altered from March to November, in order that *earlier* publicity might be given to the state of the Society's affairs at the end of June, that being the period fixed by the Deed for the termination of each financial year. In consequence of this alteration no Meeting took place in March last, and it is therefore now the duty of the Directors to lay before this Meeting a statement of the transactions of the Society for the *two* years ending the 30th June, 1857.

The number of New Policies issued within that period was 1097;

The amount of Assurances granted was 605,300*l*.; and

The New Premiums arising therefrom amount to 20,729*l*. per annum.

The Assurance Fund, notwithstanding the payment in cash of 65,384*l*. as Bonus since the declaration in January, has increased during the two years by no less a sum than 55,676*l*.

From these facts it will be readily perceived that during the period under notice the progress of the Society has been in no degree retarded by the effects of the war, by the state of the money market, or by the active competition which has existed amongst kindred institutions.

After the full and comprehensive statements made at the Extraordinary Meeting in January last, when the SIXTH BONUS was declared, the Directors feel that there is little further now to communicate; but they cannot refrain from mentioning that the Bonus then divided, which averaged 46*l*. per cent. in Reversion, and 27*l*. per cent. in cash, on the Premiums received since 1851, has given general satisfaction, and has tended materially to sustain and advance the high estimation in which the Society has been so long held by the Public.

An Account of the Proceedings at the last BONUS MEETING, setting forth the Assets and Liabilities of the Society, and also the FAVOURABLE POSITION IN WHICH PERSONS WHO NOW ASSURE will be placed, can be obtained on application.

GEORGE H. PINCKARD, Actuary.
GEORGE CUTCLIFFE, Assistant Actuary.

13, St. James's-square, London—S. W.

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Printed by HENRY HANSARD, at his Printing Office, in Parker Street, in the Parish of St. Giles-in-the-Fields, in the County of Middlesex; and Published at No. 3, CHANCERY LANE, in the Parish of St. Dunstan in the West, in the City of London, by HENRY SWEET, residing at No. 34, Porchester Terrace, Bayswater, in the County of Middlesex.—Saturday, January 2, 1858.

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THOMAS ROACH, Broad-street-chambers, Old Broad-st., City, mining agent, Jan. 14 at 11, and Feb. 18 at 1, London: Off. Ass. Johnson; Sol. Catlin, Ely-place, Holborn. —Pet. f. Dec. 30.

HENRY WATKINS, Irongate-wharf, Praed-street, Paddington, lime merchant, Jan. 12 at 12, and Feb. 18 at 2, London: Off. Ass. Bell; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. Dec. 31.

SAMUEL PERRY, Birmingham, jeweller, Jan. 13 and Feb. 1 at 10, Birmingham: Off. Ass. Whitmore; Sols. Gem & Co., Birmingham.—Pet. d. Dec. 28.

WILLIAM HUES, Warwick, commission agent, Jan. 16 and Feb. 4 at half-past 11, Birmingham: Off. Ass. Kinnear; Sol. Armfield, Birmingham.—Pet. d. Dec. 29.

WILLIAM COOK, Birmingham, stonemason, Jan. 16 and Feb. 4 at half-past 11, Birmingham: Off. Ass. Kinnear; Sol. Smith, Birmingham.—Pet. d. Dec. 31.

JOHN BURFORD and JAMES THOMPSON, Bilston, Staffordshire, ironmasters, Jan. 25 and Feb. 15 at half-past 10, Birmingham: Off. Ass. Whitmore; Sols. Corser & Co., Wolverhampton; James & Knight, Birmingham.—Pet. d. Dec. 31.

JOHN SCOTT, Shrewsbury, Shropshire, coal dealer, Jan. 16 and Feb. 4 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Barnett & Marlow, Walsall.—Pet. d. Dec. 22.

BARNARD GEORGE DYER, Cardiff, Glamorganshire, shipchandler, Jan. 11 and Feb. 9 at 11, Bristol: Off. Ass. Acraman; Sols. Leman & Humphrys, Bristol. — Pet. f. Dec. 15.

GEORGE WALL, Cheltenham, Gloucestershire, grocer, Jan. 12 and Feb. 9 at 11, Bristol: Off. Ass. Miller; Sols. Pruen, Cheltenham; Abbott & Lucas, Bristol.—Pet. f. Dec. 30.

WILLIAM QUAYLE, Liverpool, shipbroker, Jan. 13 and Feb. 2 at 11, Liverpool: Off. Ass. Cazenove; Sol. Jenkins, Liverpool.—Pet. f. Dec. 29.

DANIEL EDGAR MONIES, Liverpool, merchant, Jan. 18 at 11, and Feb. 2 at 12, Liverpool: Off. Ass. Cazenove; Sol. Yates, jun., Liverpool.—Pet. f. Dec. 23.

WILLIAM TAYLOR the elder, WILLIAM TAYLOR the younger, and HENRY TAYLOR, Barnsley, Yorkshire, linen manufacturers, Jan. 18 at half-past 11, and Feb. 22 at 11, Leeds: Off. Ass. Hope; Sols. Bond & Barwick, Leeds. —Pet. d. Dec. 24.

ADOLPH FREDERICK BECKMAN, North Shields, shipchandler, (trading under the style or firm of A. F. Beckman & Co.), Jan. 12 at 11, and Feb. 24 at 1, Newcastle-upon-Tyne: Off. Ass. Baker; Sol. Brignal, Durham.—Pet. f. Dec. 18.

Meetings.

John Hinkley the younger, Brentwood, Essex, corn dealer, Jan. 15 at 12, London, last ex.—*D. Mandelbaum*, Minories, City, importer of foriegn goods, Jan. 13 at 1, London, last ex. —*James Scruby*, Bishops Stortford, Hertfordshire, grocer, Jan. 12 at 2, London, last ex.—*Howard Gill*, Gloucester-crescent North, Porchester-square, Bayswater, merchant, Jan. 12 at 12, London, last ex.—*Robert Johnson*, Phoenix-place, Calthorpe-st., Gray's-inn-road, and Bell-yard, Gracechurch-street, London, builder, Jan. 13 at half-past 12, London, last ex.—*George Archer*, Great Clacton, near Colchester, Essex, corn merchant, Jan. 12 at 1, London, last ex.—*George Wheildon* the younger, Wyke-house, near Wincanton, Gillingham, Dorsetshire, brickmaker, Jan 12 at 11, London, last ex.—*John Chapman*, Hartlepool, Durham, grocer, Jan. 14 at 1, Newcastle-upon-Tyne, last ex.—*Robert Hindry Mason*, Sunderland, Durham, and Tynemouth, Northumberland, printer, Jan. 15 at 11, Newcastle-upon-Tyne, last ex.—*John Hall*, Dudley, Worcestershire, millmaker, Jan. 15 at 10, Birmingham, last ex.—*George W. Basham* and *Charles Edward Davis*, Walbrook, City, export oilmen, Jan. 13 at 12, London, aud. ac. — *James Andrewartha*, Forest-hill-terrace, Kent, builder. Jan. 13 at half-past 12, London, aud. ac.—*Thomas Browne Hannaford*, Ratcliff-cross, Middlesex, slate merchant, Jan. 13 at 1, London, aud. ac.—*Thomas Stenhouse*, Friday-street, Cheapside, City, warehouseman, Jan. 14 at 12, London, aud. ac.—*J. Beckwith Towse*, Lawrence Pountney-lane, City, shipowner, Jan. 14 at half-past 12, London, aud. ac.—*Charles Duvall*, Crosby-row, Walworth-road, Surrey, and Queen's-buildings, Knightsbridge, Middlesex, provision merchant, Jan. 14 at 11, London, aud. ac.—*John Fisher Goude*, Cheapside, City, apothecary, Jan. 14 at half-past 12, London, aud. ac.—*Wm. Henry Lidbetter*, Tunbridge Wells, Kent, corn dealer, Jan. 14 at half-past 12, London, aud. ac.—*Thos. George White*, Aldermanbury, City, lace warehouseman, Jan. 15 at 12, London, aud. ac.—*Edmund White*, New Corn Exchange, Mark-lane, London; Phœnix-wharf, Stratford, Essex; and Globe-wharf, Wapping, Middlesex, corn merchant, Jan. 14 at half past 11, London, aud. ac.—*Robert M'Naught*, Hertford, linendraper, Jan. 14 at 11, London, aud. ac.—*John Stokes*, St. George-street, St. George-in-the-East, Middlesex, corn chandler, Jan. 15 at half-past 1, London, aud. ac.—*Thomas Nash* the younger, Great Dover-street, Southwark, brushmaker, Jan. 14 at 11, London, aud. ac.—*Henry Carter*, Worthing, Sussex, tailor, Jan. 14 at half-past 11, London, aud. ac.—*James Curtis*, Gresham, Norfolk, tailor, Jan. 14 at 12, London, aud. ac.—*Samuel Lovelock* and *Thos. Forster*, Dowgate-hill, London, and Streatham, Surrey, India-rubber manufacturers, Jan. 14 at 12, London, aud. ac.—*John Sexby*, Vauxhall-walk, Lambeth, builder, Jan. 14 at half-past 11, London, aud. ac.—*Alfred Shuckforth Francis* and *George Austen*, Cheapside, City, warehousemen, Jan. 22 at 11, London, aud. ac.—*Elizabeth Rodgers*, Westminster-bridge-road, hosier, Jan. 15 at 12, London, aud. ac.—*Owen Sturgis*, College-terrace, Finchley-road, St. John's-wood, builder, Jan. 15 at 1, London, aud. ac.—*Richard Tomlin*, Castle-street, Leicester-square, licensed victualler, Jan. 15 at 11, London, aud. ac.—*Joseph Lane* and *George Wacey Stevenson*, Fore-street, Cripplegate, general merchants, Jan. 19 at 12, London, aud. ac.—*Tertius D'Oyley Pain*, King-street, Hammersmith, chemist, Jan. 19 at 1, London, aud. ac.—*Charles Gray*, Cheltenham, baker, Jan. 21 at 11, Bristol, aud. ac.—*Charles Edward Merry*, Bristol, grocer, Jan. 21 at 11, Bristol, aud. ac.; Jan. 28 at 11, div.—*John Hair*, Newcastle-upon-Tyne, shipbroker, Jan. 14 at 11, Newcastle-upon-Tyne, aud. ac.—*Robert James Brown*, Sunderland, timber merchant, Jan. 15 at half-past 11, Newcastle-upon-Tyne, pr. d. and aud. ac.—*Henry B. Craven*, Leeds, corn factor, Jan. 14 at 11, Leeds, aud. ac.—*Wm. Tull*, Andover, Hampshire, grocer, Jan. 22 at 11, London, div.—*Richard Parker*, New Inn-yard, Old Bailey, City, carrier, Jan. 23 at 12, London, div.—*George Josiah Palmer* the elder, Savoy-street, Strand, printer, Jan. 23 at 1, London, div.—*Thomas Warington*, New Corn Exchange, Mark-lane, corn merchant, Jan. 25 at 11, London, div. —*Richard Fernell*, Aldermanbury, City, commission agent, Jan. 22 at 12, London, div.—*Wm. Johnston*, Whitehaven, Cumberland, currier, Jan. 27 at 11, Newcastle-upon-Tyne, fin. div.—*W. Usher*, Sunderland, rope manufacturer, Jan. 27 at 12, Newcastle-upon-Tyne, first and fin. div.—*Geo. Cooke*, Leeds, grocer, Jan. 22 at 11, Leeds, div.—*John Hamilton* and *Robert Hamilton*, Halifax, Yorkshire, wire workers, Jan. 22 at 11, Leeds, div.—*Matthew Wotherspoon* and *Joseph Rugglesford Walford*, Liverpool, merchants, Jan. 25 at 11, Liverpool, div.

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THE JURIST.

LONDON, JANUARY 9, 1858.

ALTHOUGH the principle laid down and acted upon by Courts of equity, that *a trustee shall not profit by his trust*, is doubtless most sound and beneficial when confined within due limits, it has, we conceive, in certain cases, been carried beyond them. Where, for instance, a trustee speculates with trust funds, where he renews a lease belonging to his cestui que trust in his own name, or where he purchases the trust property, in all such cases the operation of the rule is most just which deprives the trustee of any benefit which he may have *gained* by such transactions. No person could, with any shew of reason, contend, that when trust property has been embarked by a trustee in any undertaking not authorised by the trust, he should pay to his cestui que trust merely the ordinary rate of interest, and appropriate to himself the rest of the profits which may have been gained in consequence of the risk to which the trust property was improperly subjected. So, when a trustee himself purchases the trust property, no one can doubt the propriety of the decisions which set aside such transactions, for as it is the duty of the trustee to gain the greatest possible advantage for his cestui que trust, he, by becoming himself a purchaser, places himself in a position in which his interest becomes antagonistic to his duty, for his own interest would doubtless induce him to purchase at the lowest price, and no person, however fair may be his intentions, would be able to judge how far he had made use of the knowledge of the property which he had acquired in consequence of his fiduciary position, or how far he may have sacrificed his duty to his interest. Where, however, trustees or executors are forbidden, in the absence of any direction on the part of the creator of the trust, or of any contract with the cestui que trust, to receive any remuneration for the performance of their duties, often most laborious, and involving a great sacrifice of time and labour, we cannot but think the operation of the rule is carried too far. Take, for instance, the case of executors, perhaps themselves engaged in trade on their own account, carrying on, pursuant to trusts for that purpose, and greatly for the benefit of their cestuis que trust, the trade of their testator; according to the present law they are not entitled to charge a single farthing as compensation for their trouble or loss of time, however great it may have been. (*Brocksopp* v. *Barnes*, 5 Mad. 90). Many of our colonies have, however, felt it advisable or necessary to alter the law in this respect. Thus in the West Indies a commission of 6*l.* per cent. is allowed to trustees and guardians as long as they personally take care of the management and improvement of the estates committed to their charge. So executors in the East Indies are entitled to a commission of 5*l.* per cent. upon the receipts and payments. (*Chetham* v. *Lord Audley*, 4 Ves. 72).

In the greater part of the United States the rule has been altered. In New York, so far back as the year 1817, an act made it lawful for the Court of Chancery, in the settlement of accounts of guardians, executors, and administrators, to make to them a reasonable allowance for their services over and above their expenses. (*In re Roberts*, 3 Johns. Ch. 43). An order in Chancery made in the same year (Id. 630) reduced these provisions to some precision, by directing that the allowance for receiving and paying money should be 5 per cent. on all sums not exceeding 1000 dollars, 2½ per cent. on any excess between 1000 and 5000, and 1 per cent. for all above that amount. The revised statutes have since adopted the same rule, (2 Rev. St. 93), with the addition, that any provision made by a testator for specific compensation is to be deemed a full satisfaction for an executor's services, unless by a written instrument filed with the surrogate he elect to renounce such legacy.

The compensation to trustees, being thus the subject of positive enactment in New York, seems to have been thought a matter of right, and not of grace, and is not forfeited by misconduct on their part. Their commissions are allowed to them even though they should be charged with compound interest, (*Vanderheyden* v.

Vanderheyden, 1 Sandf. Ch. 406), or have been guilty of gross negligence. (*Meacham* v. *Sterns*, 9 Paige, 405). This, however, seems to be carrying the principle of compensation too far, for assuming that a trustee is justly entitled to remuneration, his only claim is for the *proper performance of his duties;* and as a paid agent renders himself liable to damages for any loss occasioned by his negligence, so we think that a trustee, who is paid for the performance of the duties of his office, would justly incur a forfeiture of his commission if he has been guilty of any serious misconduct, or a breach of trust.

In this country, although observations have frequently been made with regard to the hardship with which the rule often operates, the Legislature has not deemed it proper as yet to interfere. Since, however, in addition to the former liability of trustees for breaches of trust in certain cases, they are now rendered liable to criminal proceedings for fraudulent breaches of trust, it will, perhaps, be found politic, or even necessary, in order to get persons to act as trustees or executors, to hold out some inducements which may in some degree compensate them for the expenditure of time and trouble in the duties of such offices. It may be said, in support of the present rule, that as the acceptance of every trust is voluntary, and the person who accepts it knows, or ought to know, that the office is honorary, he has no just ground for complaint. It has, however, been well remarked by Mr. Justice Story, that to "say that no one is obliged to take upon himself the duty of a trustee is to evade and not to answer the objection. The policy of the law ought to be such as to *induce honourable men, without a sacrifice of their private interests*, to accept the office, and to take away the temptation to abuse the trust for mere selfish purposes, as the only indemnity for services of an important and anxious character." (Story's Eq. Jur. s. 1268, note). These observations of Mr. Justice Story put the question in its true light, and if the result of the present law is to prevent the best and most fitting persons, and sometimes all persons, from accepting a trust which if adequately remunerated they might be willing to undertake, it certainly would be useful to consider whether the alteration of the law effected in the United States, and in some of our colonies, might not be altogether, or with some modifications, adopted in this country. The effect of the present law must be obvious to every practitioner, who must frequently have observed with what difficulty prudent persons are induced to act as trustees or executors, and that too often persons utterly unqualified for the duties of such offices are appointed to and accept them, without caring or thinking about their responsibilities or duties.

Hence arises much loss to trust estates, sometimes by actual dishonesty on the part of trustees, oftener perhaps from their carelessness and ignorance of the manner in which the affairs of the trust should be managed. But assuming that proper trustees have been appointed, and have accepted the trusts, if they are of an onerous and complicated character, necessarily involving the trustees in some risk, and taking up much of their time and attention, and setting aside the consideration of the injustice of requiring so much from them gratuitously, we believe that if they were fairly and properly remunerated, in the great majority of cases the cestuis que trust would be more than compensated, by the additional care which would be bestowed upon their affairs. It is not easy to say what the amount of remuneration should be; but there would be obvious difficulties in making it depend upon the particular circumstances of each trust, and the amount of time and labour bestowed upon it. There should be some general rule laid down applicable to all trusts. "It is evident," says an eminent American judge, "that all attempts to assess the value of services performed in trusts, by placing each case upon its peculiar circumstances and intrinsic merits, must terminate in a power of mere discretion—a discretion to a great extent arbitrary. This mode of assessment would be to produce extensive litigation in adjusting the rewards of executors, administrators, and guardians." (*M'Whorter* v. *Benson*, Hopk. 28).

In fixing, however, upon a scale of remuneration for persons in fiduciary positions, we cannot but think that it should be calculated, not only with reference to the care and trouble which the administration of trust property generally requires, but also with reference to the risk of loss which trustees of the highest integrity, and the best wishes honestly and honourably to perform the duties intrusted to them, too frequently incur.

THE RECENT DECISION OF THE COURT OF COMMON PLEAS WITH REGARD TO CROSSED CHEQUES.

It is now several months since we invited attention to the defective state of the law with regard to crossed cheques, and the perplexity in which the obscure and insufficient provisions of the stat. 19 & 20 Vict. c. 25, were likely to involve transactions carried on through the medium of these instruments. (Ante, p. 163). The case which suggested our remarks (*Simmons* v. *Taylor*) depended upon the construction of the statute referred to; and the judgment in the case, recently delivered by the Court of Common Pleas, (3 Jur., N. S., part 1, p. 1305), will have a most important effect upon the law in question. The decision has caused much anxiety amongst mercantile men, who have been in the habit of reposing a blind security in the protection provided by the statute, and now find, from the interpretation which the Court has given to the act, that their confidence has been misplaced.

The judgment is founded upon the consideration of two questions—first, whether, in order to hold the banker liable where he pays over the counter a cheque once crossed, the statute requires that the draft should exhibit the crossing when presented; and, secondly, whether the crossing is a part of the draft, so that an erasure of the crossing would amount to forgery. The decision upon the first point is in the affirmative; but upon the second, in the negative. The Chief Justice concurred in the judgment; but, with regard to the second point, stated that he did not do so without considerable doubt and hesitation. The result of the decision is, that the safeguard to the public from crossing a cheque is scarcely more than it was before the act. As the subject is one of great importance, we propose in the following observations to consider the reasoning upon which the judgment upon both points has proceeded. It was doubtless a matter of great difficulty and nicety which the Court had to determine; but the conclusions arrived at seem to have been prompted rather by considerations of expediency, and by a refined and subtle interpretation, than by due regard for the obvious spirit and intention of the act. The judgment commences by briefly reviewing the state of the law before the statute. The crossing upon a cheque at that time did not limit the authority of the drawee to paying the party or firm whose name was written across it; it did not amount to a direction; it merely had the effect of calling for vigilance on the part of the drawee; and where a banker paid a cheque otherwise than to the party designated by the crossing, the question was not whether he had acted contrary to orders, but whether he had been guilty of negligence. The crossing formed no part of the instrument, and in no way altered its effect. (Per Parke, B., in *Bellamy* v. *Majoribanks*, 7 Exch. 403). "This statute was passed for the purpose of making such matter written across a cheque, whether written by the drawee or payee, operate as a direction to the banker to pay in that mode only." The words of the statute are—"Whereas doubts have arisen as to the obligations of bankers with respect to cross-written drafts; and whereas it would conduce to the ease of commerce, the security of property, and the prevention of crime, if drawers or holders of drafts on bankers payable to bearer or to order on demand were enabled effectually to direct the payment of the same to be made only to or through some banker; be it therefore enacted &c. as follows:—In every case where a draft on any banker made payable to bearer or to order on demand bears across its face an address in written or stamped letters of the name of any banker, or of the words 'and company,' in full or abbreviated, either of *such additions* shall have the force of a direction to the bankers upon whom such draft is made, that the same is to be paid only to or through some banker, *and the same shall be payable only to or through some banker*." Thus much having been premised, Mr. Justice Cresswell, who delivered the judgment, goes on to consider the first point—"This, I apprehend, does not apply to the time when the cheque is issued; for the preamble contemplates the crossing of a cheque, not by the drawer only, but also by the holder, whoever he may be; nor can it be construed as if the words had been "if a cheque at any time bears," for if after it is issued uncrossed a holder may have the benefit of the enactment by crossing it, *why should not another holder have a right to erase that, and restore it to the condition in which it was issued?* Considering this, and also *the difficulty of holding that anything can operate as a direction to the banker which is not exhibited* to him, I think the statute must mean, *that the cheque is to bear the crossing when presented.* If so, the cheque in question did not bear it, and the banker was not prohibited from paying it otherwise than to or through a banker." Now, we readily admit, that upon the construction of the statute it contemplates the crossing being made either by the drawer or holder, whoever he may be; but looking at the force and effect that such crossing would then acquire by the statute, that the cheque then "shall be payable only to or through some banker," is it to be inferred, as the judgment seems to infer, that because the crossing may at any time be affixed, a corresponding authority is permitted to any holder to erase it? It is obvious, that if the view taken by the Court of Common Pleas in this part of the judgment is supported, the statute is of no avail; for if any holder may restore a crossed cheque to its original condition, a dash of the pen would at any time destroy the security upon which the drawer or holder who crossed it has relied, and his protection would be gone from the moment that the draft left his hands. This consideration alone, that the act would be rendered utterly futile, is incontrovertible to our minds to shew that this part of the decision is unsound. We do not suppose that the term "restore," which is used in the judgment, in speaking of what any bonâ fide holder may do, means restoration, by means of some chemical process or otherwise, to such a condition as to deceive the eye, for such an act would be inconsistent with any honest purpose. If the term means, as it must mean, restoring by striking out, the result we have described must follow, and the act must be rendered nugatory. *Benignæ faciendæ sunt interpretationes propter simplicitatem laicorum ut res magis valeat quam pereat; et verba intentioni, non e contrà, debent inservire.* Would it not then have been more reasonable and more consistent with the spirit and intention of this statute to hold, that the legal effect of the crossing having undergone an alteration by the force of the statute, and now affecting so materially the negotiability of the instrument, it became part of the instrument from the time that it was affixed? If so, whatever right a holder might have to cross an uncrossed cheque, no subsequent holder would be entitled to erase it, or strike it out, without, by his violation of recognised principles, rendering the instrument void, and at least the immediate object of the act, the security of the property in the draft, would have been attained. In the present case one of two innocent persons must suffer; but it is not a question of hardship that is to be dealt with, but of law; and, whatever may be the inconveniences resulting from a different exposition of the act, the propriety of a construction which renders the act useless is open to serious doubts. The judgment then notices the difficulty of holding an addition which has been erased "*a direction*" to the banker, because "*not exhibited.*" But is it not a reasonable answer to this objection, that, whether attached by the drawer or holder, it thereupon becomes a material part of the cheque, and that there is as much reason for holding an unlawful erasure equivalent to forgery as in holding a banker responsible for paying a forged cheque? It is to be observed that in this part of the judgment it is assumed that a crossing may be at any time erased, and therefore that the point which the judgment in the second branch proposes to establish is assumed; but when we come to consider the second branch it will be seen that the reasons for the decision upon the second point proceed upon the same assumption as to the right of any holder to erase. With regard to the second point in the case the judgment proceeds as follows:—"But it is further to be considered whether the crossing was part of the cheque, so that the erasure of it would amount to a forgery of another and different cheque from that which the plaintiff drew, for if it had that effect the plaintiff never drew the cheque that was paid, and the banker cannot claim credit for it. In the first place, *it does not appear that the Legislature contemplated making the crossing a part of the cheque. The statute says that it shall have the force of a direction, not that it shall alter the instrument.* If it were to have that effect, *it would be a strange thing to give to the payee or any subsequent holder power to alter a cheque without avoiding it, and would have the effect of creating a new sort of instrument hitherto unknown to the law,* viz. a cheque payable to bearer conditionally—that is, if presented by or through a banker. Again: *it seems strange to enact that one holder may cross a cheque, and a subsequent holder may not erase that crossing, and restore it* to the condition in which it was issued. *If he may, then at all events the crossing can only be part of the cheque as long as it remains upon it.* Another reason for holding it not to be part of the cheque is this—that in such case, if a cheque once crossed with a banker's name, afterwards erased, were presented by or through a banker and paid, (which is all that is required in the case of a cheque bearing the crossing when presented), *the banker could not claim credit for the payment so made*—a result which the Legislature does not appear to have contemplated or intended." In considering the first point it was impossible to avoid some observations which might find a place here. Does it appear so clearly as the judgment assumes, that the Legislature did not contemplate making the crossing a part of the cheque? Some reasons to the contrary have been already presented; both the words and spirit of the act appear to us to shew the reverse. The preamble recites that it would conduce to the ease of commerce &c. if drawers or holders of drafts were enabled "*effectually* to direct the payment of the same to be made only to or through some banker;" and the enacting words are, "either of such additions shall have the force of a direction to the banker upon whom such draft is made, that the same is to be paid only to or through some banker, and *the same shall be payable only to or through some banker*." Before the act, the crossing, as it has been observed, did not restrain its negotiability; but by these concluding words, as strong as prohibitive words can be, the negotiability of the draft is effectually restrained, except upon the condition of presentment through a banker. This incident of a crossed cheque having been imparted to it by the act, it seems to us that the character of the instrument became altered, and, to some extent, an instrument new to the law was created. If the effect of the act was to create such instrument, express terms for that purpose would have been superfluous; but we cannot see that, under the circumstances, there is any reason for surprise at the statute having this result. If, under the old law, the instrument, with such incidents as then attached to it, was insufficient for the requirements of commerce and protection of property, why should the crossing be regarded as less a part of the instrument, because it cannot be so regarded without also holding that it may be affixed upon an uncrossed cheque, and so qualify and control its operation, as that to some extent a crossed cheque after the statute ceased to be the same instrument which it was before? The judgment seems to infer that the Legislature did not contemplate making the crossing part of the cheque, because "the statute says it shall have the force of a direction, not that it shall alter the instrument." Where intention was so clear, surely express terms were not to be expected; and is it not hypercritical to allow the use of the word "direction" to derogate from the construction in favour of a meaning which is so evident? Lastly, with respect to that part of the decision which notices the strangeness of an enactment that one holder may cross, and that a subsequent holder may not erase that crossing, and restore it to the condition in which the cheque was issued—a matter which has been already considered—we really think nothing could be more reasonable or proper. It is of the very spirit and essence of the act that a crossing once put on should not be erased; for obviously, if this might be done, it would be utterly useless for the drawer, payee, or holder to affix it, and the statute would fail to provide the intended protection. Upon these grounds which we have stated the decision appears to us unsatisfactory, and the doubts entertained by the Chief Justice well founded.

As the law now stands, a banker is only bound to recognise additions of the description mentioned in the act, provided they are exhibited upon the draft when presented: they form no part of the draft, and, as it seems, cannot be the subject of forgery. The result is, that any holder may affix, alter, or cancel them at pleasure, and the expressed intention of the act to facilitate commerce, secure property, and prevent crime, has altogether failed. It is, however, to be borne in mind, that although the law, as it now is, is inadequate to the magnitude of the interests affected by it, it is by this decision rendered clear and intelligible, and embarrassing questions, which must have arisen if an opposite view of the case had been adopted, have been effectually avoided. A more perfect measure must be sought from the Legislature; and it will be a question for the commercial public what provisions the exigencies of trade demand. To us it appears that it should be of the very essence of such a measure to enact, with qualifications, that the crossing upon a draft should be deemed part of the draft; that a special crossing—that is, one naming a particular banker—should under no circumstances be altered or erased; and, lastly, that no crossing in blank should be altered or erased, except for the single purpose of crossing the draft specially.

Reviews.

1. *On the Roots of the Evils of the Law: Economical Considerations on the Autocracy of the Bar, and on the System of prescribed Tariffs for Legal Wages, and on the Connexion of these two Subjects.* *By* EDWIN W. FIELD. [*Wildy & Son.*]
2. *Law Reform: What should a Minister of Justice do? Efficiency in the Methods of Procedure, and in the Daily Workings of the Judiciary, the great Need in Legal Reform.* *By* EDWIN W. FIELD. [*Wildy & Son.*]

IN "The Companion to the Almanack for 1858" there are some remarks by Mr. Charles Knight on the modern fashion of forming societies for the discovery of wants and grievances, which are well worthy of attention, in spite of the unfortunate style in which they are written. The little sheets of bad paper, containing in bad print driblets of what a graceless pupil calls "amendment rot," which the Law Amendment Society distribute as freely and thanklessly as if they were assignats, have tended very much to depreciate law-reform stock in the market, and Mr. Field is an instructive example of the deteriorating effect of association without a definite and practicable object. He is a law reformer from taste and conviction. He was a law reformer before the cause, having grown fashionable, became disgraced by falling into the hands of political adventurers—the Sir R.'s and Sir F.'s, and others in high or low station, who are ready to lay the axe to any tree—the taller and sounder the better, since its fall will produce more éclat. Hence we always listen to Mr. Field with respect, even when we cannot agree with him as to the seat of the evil he would cure, or as to the remedy he would apply. And in his crusade against all manner of evil we think, that, whether from prejudice against the rooks who dwell aloft, or from envy of their position, he is seeking to grub up, under the name of "root of evil," a very useful and ornamental piece of timber. It requires, indeed, all Mr. Field's ability to cover, and he barely succeeds in covering, the ludicrousness of the connexion he would establish between, 1, the exclusion of solicitors from the bar, and, 2, the payment for certain legal services, according to verbiage—as roots, and the evils of the law—as stock, stem, branches, and fruit. All the upas of Westminster nourished by a vacuum of attornies and a plenum of folios! But evil communications are spoiling him, as they have spoiled more eminent reformers. Since he joined these societies his aims have become wild and random; sheep and windmills have undergone his assaults; even his style is rapidly falling to the level of the Law Amendment Journal. His last pamphlet, though the shortest, is the most tedious we have seen. Out of the sixteen pages we can gather not a scrap of information, nor indeed anything but these two suggestions—1, that the amendment of legal procedure is of pressing necessity, and, 2, that it should be based on and secured by accurate and detailed returns of the business done and costs incurred in all the courts. Very likely these suggestions might fructify in the mind of a practical, earnest man, but no man would have ventured to produce them in the crude, nebulous, useless form in which they appear in Mr. Field's pamphlet, if he had not been encouraged by the empty reverberations of a mutual applause society.

In attacking the privileges of the Bar, Mr. Field shews a little more energy, but very little discretion:—

"Differing in this respect from every other occupation, the legal regulation of advocacy—if I may call that *legal* which is really above and outside all legal control—is placed in the hands of the great lawyers, and, as I have just said, is above all judicial and legislative control. Its members form a corporation or guild which govern the most important of all civil occupations by *its own* wisdom, or interests, or whims, or by a mixture of all three, and which, by regulations historically quite modern, (some only a few years old), has entirely severed advocacy from the lower pursuits of the Profession, and has done this so as effectually to debar any systematic addition to its own ranks from that source from which nature, (the true guide in these matters), if left unrestricted, would have recruited them. Did a cobbler desire to go the bar, (and to the honour of the Bar be it said that that supposition is not a fanciful one), he might be called to the bar three years after entering himself at one of the inns of court, continuing to work at his stall all the while. But if my learned and able friend now near me desired to be called to the bar, he must have been struck off the roll of attornies, and have entirely and bonâ fide ceased to act either as a solicitor or in any of the other legal capacities mentioned in the recent rule of the four inns for three years. Three years is enough for a cobbler, who is all the while continuing his practice, to learn all the preliminary law necessary to his admission to the bar—three years' *abstinence* from practice and forgetfulness of his previous knowledge would be imposed upon my learned friend."

Mr. Field will be glad to learn that cobblers and attornies are upon the same footing. Abstinence from the pursuit of *any* trade or business is in all the inns a necessary condition to the keeping of terms.

Mr. Field then suggests two questions—first, "Is this exclusion of attornies and solicitors expedient for the public?" And, secondly, "Is it expedient that the Bar itself should be the legislature on such a subject, and have power, at its own simple will and ipse dixit, to exclude from the trade of advocacy any bodies of men whatever—most of all, to exclude those who more than all others would be most competent to enter into such trade in rivalry with themselves?"

"With the first of these two questions Mr. Bulmer's paper deals, as far as it goes, very ably. It omits, however, to point out to the public (as I conceive we are bound to point out if we are to be outspoken on the subject) that the *inexpediency* of all such regulations is the leading doctrine of political economy, and that such regulations are opposed to that principle of 'unrestricted competition,' as one of our great statesmen calls it, which is in future, he says, to be the governing policy of this kingdom. Besides all monetary considerations turning on the fact that the present regulations constantly require two men to be employed on work that one would otherwise efficiently perform, (the elucidation of which considerations would alone afford materials for a paper), the interest of the employer (the public) plainly is to have as large a labour market to choose its legal workmen out of as possible, and to get rid of every regulation which would prevent the removal of its labourers from one point of legal employment to another."

"Moreover, such regulations prevent the legal workman from applying himself to that one particular branch of legal occupation to which, after trial and *upon experience*, he finds himself most fitted; and, on the contrary, they require him, before he has had any experience, to decide to which particular branch the whole of his future life shall be devoted. To the adoption of the opposite course the remarkable excellence of the American lawyers is to be attributed."

Mr. Field has probably taken the American lawyers at their own estimate. No one who judges them by their text-books and reports will rate them highly. No doubt the Anglo-Saxon race in America is capable of contributing the same amount of talent to the legal profession that it does in England, but there are other outlets for ability there. The legal profession does not offer the same peculiar attractions to cultivated talent that it does here; and, whatever may be the cause, the law in the United States is very much less scientific and exact than it is here. America has produced few good treatises—scarcely one of remarkable excellence; and its judicial precedents will not bear comparison with our own. But this is beside the question. Every American lawyer might be, as Mr. M. O'Connell has it, a Lycurgus, and yet not owe it to his attorney breeding.

Whenever Mr. Field wishes to depreciate any contrivance or adaptation in society, he calls it anomalous. The "latens schematismus" remains latent to him. Instead of patiently dissecting and studying the working of that, as Lord Bacon recommends, and so learning to understand, qualify, and apply his general principles, he tries to knock it over with some crude, hard-dried principle or cant phrase from the minor political economists, such as "free competition," "laissez faire," and "monopoly." The words of the accurate and trustworthy M'Culloch, (so Mr. Field seems to qualify him), in his Dictionary, voce "Monopoly," condemn the exclusiveness of the great "legal guild:"—"Why, without any law of the realm empowering them, can it be right that a body of legal workmen, very high, indeed, in their incomes, but very small in their numbers, should have this abnormal power, and should alter the civil status of other classes of their fellow-subjects, and prescribe 10,000—or, taking all the proscribed classes, probably 20,000—other legal workmen from ever, all their lives, competing with them in the public law labour market for employment in advocacy? for, as I have said, their rules amount to a virtual proscription for life."

We did not know that the fact was so. We thought that the Bar was overstocked, and that the "inferior branch" of the legal tree bore the best crop of golden fruit, both as regards the averages and the monstrosities. Our notion of the average of barristers' incomes is 75*l.* a year, with from three to nine years' credit, and abundance of bad debts, implying more work than the pay represents; and our notion of a barrister's work is, that it is three times as hard as an attorney's in proportion to the pay. But taking Mr. Field's statement of the case, he himself may suggest the answer to his inquiry, why this is? He is a man of practice, has been brought up from hand to mouth, as attornies generally are brought up. The consequence is, that his legal mind is or ought to be practical, but certainly it is not comprehensive. He has snatched at principles, and torn them away to wither in his hands, instead of carefully tracing and taking up their roots for growth. His notions of symmetry and arrangement admit geometrical figures, and exclude the vital forms of nature. When the Patron of the Alphonsine tables had sufficiently puzzled himself with the Ptolemaic representation of the heavenly motions, he expressed an opinion, which would have been irreverent in the mouth of any mortal but a Castilian Hidalgo, that had he been consulted he could have given the Creator a better plan. Kepler, Galileo, and Newton, with far less arrogance, and infinitely more patience and sagacity, were content to investigate, and for their reward they discovered in the laws of the stars a simplicity and efficiency which the Alphonsine code might have failed to compass. The reason of the rule of which Mr. Field complains is not very difficult to see. The rule, as he points out, is not a relic of antiquity—something which has survived its cause and reason; it has grown up from the nature of things, and has been gradually shaped into its present form (not quite perfect, perhaps, but not to be improved by

Mr. Field's chisel or rasp) under the watchful care of the most eminent judges and counsel. The object of the institution of the Bar is the conservation of the principles of the common law. This would be impossible in the hands of attornies. Their minds, like those of other mortals, are subdued to what they work in. Their views are necessarily concrete; it is desirable that they should be so. An attorney, with the habits of mind which distinguish an accomplished counsel, would be unfit for his work. Each by proper training is fitted for his occupation. The cases are exceptional where either branch of the Profession has been benefited by recruits from the other, and those recruits who *have* made good soldiers were drilled under the system Mr. Field would abolish. It is not worth while to stop to discriminate the intellectual characteristics which the two professions respectively require. There can be no doubt that of two minds, fresh from university training, and innocent of law or practice, one will be better fitted for the bar, the other for the office, and this independently of the gift of eloquence, which, though the most regarded, is, to the welfare of society, the least important gift. Suppose, however, that these blank minds are equally capable of winning distinction in either path—that both will inevitably distinguish themselves. It is easy, alas, to win distinction and wealth at the bar without discharging the sacred trust which is committed to the Bar—to make use of the law without understanding and consequently without respecting it. If our talented adventurer, after training for and trying attorney's work, is dissatisfied with the work, or with the pay, or with the distinction, and is free at once to jump into the position of a counsel—to become one of the keepers of the country's law, (a large part of its conscience)—what days and nights are we to expect that this man, who has shewn so little foresight, so little stability of character, will devote to the patient unremunerated investigation of the principles and worth of the law? "But don't tell me," says Mr. Field, "of the patient study of the law. Have I not seen note-books filled with caricatures—barristers who did not know the difference between a lease and an assignment?" No doubt the web of students and barristers is of as mixed a quality as that of articled clerks and attornies. But we are to consider those who succeed, not those who fail in each branch. A man of ability and energy, by one mode of training, may become a successful merchant, by another a successful attorney, by another a successful (and pernicious) Nisi Prius advocate. What is wanted for the lasting interests of society in the Bar is a man who has patiently studied that which is worthy of patient study and cannot be comprehended without it. The man may wear a wig and get money enough and honour enough—all he wants, without that study. Society demands more, and is wise and right in saying to the man of ability and energy, "If you wish to be trusted with this precious machine, which requires the undivided application of all your attention and industry for years to comprehend, you must give me security for that application—you must relinquish all other occupation." The man of energy, who, if he had a business, would neglect his books, being kept from business, is true to his character; he does not vegetate, but works to the desired end, and if the right stuff is in him becomes what he would never have become while on the attornies' roll.

The Parliamentary Remembrancer. Conducted by TOULMIN SMITH, *Esq., Barrister-at-Law.* [*J. E. Taylor.*]

THE nature and object of this useful publication will be best learned from the following explanations extracted from the prospectus:—

"It is proposed to issue in the ensuing and future sessions of Parliament a carefully-prepared summary under the above title, containing a clear statement of all the actual proceedings of Parliament, with explanatory notes, and an analysis of such bills as affect the practical action or interests of municipal bodies, local authorities, parishes, or associated companies of private enterprise.

"'The Parliamentary Remembrancer' will be issued every Saturday during the parliamentary session, and will convey information which is neither to be found in the newspaper press nor in the votes and proceedings of the House of Commons, but the supply of which is one of the greatest wants throughout the country, at a time when experimental legislation is continually bringing and threatening dangers to our most trusted institutions, to the stability and efficiency of sound local action, and to the property and safety of private enterprise.

"Highway bills, public health bills, burial bills, police bills, poor-law bills, charitable trusts bills, inclosure bills, new parishes bills, bills touching rates, rating, and municipal and local affairs, elections, and action generally, proceedings of the Board of Trade, Admiralty, Charity Commissioners, Ecclesiastical Commissioners, and many other measures and proceedings of these and analogous classes, are direct examples of cases where the want of an accurate knowledge from day to day among those concerned of what is doing in Parliament, and the impossibility which at present exists of the general public getting that knowledge, have been strongly felt, and have had very disastrous results. But there are, besides such obvious examples, numberless measures continually introduced which affect, indirectly as well as directly, the interests of municipal bodies, parishes, and public companies, but which fail to attract attention and due discussion, and lead to much mischief, simply because they are unobserved and unwatched. The uncertainty and changeableness in legislation which have so injuriously distinguished the last few years can only be explained by the want of knowledge, among those affected, of what was thus being done. . . . .

"'The Parliamentary Remembrancer' will be found of great assistance to members of Parliament, and to all who are interested, either directly or indirectly, in the progress of any branch of legislation, as well as to all those who are concerned in the results of that legislation.

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The first number appeared on the 12th December. It relates to an uninteresting portion of the session. The following is the abstract of the business done on the 9th December:—

"*Wednesday, 9th December.*

"HOUSE OF LORDS.

"*Bank Issues Indemnity Bill.*—Brought from the Commons: read *first* time, to be read *second* time next day.

"*Public Income and Expenditure*—(as ordered on Friday last): account delivered.

"House of Commons.

"*Pension to Sir H. Havelock.*—Resolution of committee reported to the House, and agreed to.

"*Supply.*—Resolution of committee reported to the House, and agreed to: committee for Friday.

"*Navy and Army.*—Estimates ordered 'of the Charge for Naval Services,' and 'of the Charge for Army Services,' to the 31st March, 1859.

"*Bank Issues Indemnity Bill.*—Read *third* time: some verbal amendments made: *passed.*

> "The alteration made, though called 'verbal,' is highly important. It consists in the substitution, in the operative words of indemnity, of the words 'all acts *necessary to the making* of such issues,' in place of 'all acts *done in relation to* such issues.' The alteration confines the indemnity within precise limits. The original words were unprecise and vague, and made such a measure much more dangerous than, though dangerous under any circumstances, (see above), the limitation now introduced will leave it. The amendment is due to the care of Mr. Gladstone. But the Ministers did not oppose it. Alterations introduced into bills under the name of 'verbal amendments,' and therefore too often unheeded, are generally the most important, and often involve the whole principle of a measure.

"*Sir Henry Havelock's Annuity Bill,*—'to settle an Annuity on Sir Henry Havelock, Baronet, in consideration of his eminent Services:' brought in; read *first* time; to be read *second* time next day."

If Mr. Smith abstains from giving the publication an exclusively sectarian character, and reduces the subscription, which is too high, we have no doubt he will find that he has successfully undertaken to supply a real want.

Court Papers.

COMMON-LAW SITTINGS, IN AND AFTER HILARY TERM, 1858.

Court of Queen's Bench.

In Term.

MIDDLESEX.	LONDON.
1st sitting .. Tuesday, *Jan.* 12	1st sitting, Monday .. *Jan.* 18
2nd sitting .. Wednesday .. 20	2nd sitting, Monday 25
3rd sitting .. Wednesday .. 27 For undefended causes only.	

After Term.

Tuesday .... *Feb.* 2	Saturday .... *Feb.* 13

The Court will sit at ten o'clock every day.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

Court of Common Pleas.

In Term.

MIDDLESEX.	LONDON.
Thursday .... *Jan.* 14	Monday .... *Jan.* 18
Thursday 21	Monday 25

After Term.

Tuesday .... *Feb.* 2	Saturday .... *Feb.* 13

The Court will sit during and after term at ten o'clock.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

Exchequer of Pleas.

In Term.

MIDDLESEX.	LONDON.
1st sitting, Tuesday .. *Jan.* 12	1st sitting, Monday .. *Jan.* 18
2nd sitting, Wednesday .. 20	2nd sitting, Monday 25
3rd sitting, Wednesday .. 27	

After Term.

Tuesday .... *Feb.* 2	Saturday .... *Feb.* 13

The Court will sit in and after term at ten o'clock.

The Court will sit in Middlesex, at Nisi Prius, in term, by adjournment from day to day, until the causes entered for the respective Middlesex Sittings are disposed of.

◆

COMMON-LAW CAUSE LISTS, HILARY TERM, 1858.

Court of Queen's Bench.

NEW TRIALS.

REMAINING UNDETERMINED AT THE END OF THE SITTINGS AFTER MICHAELMAS TERM, 1857.

FOR JUDGMENT.

Midd.—Munro *v.* Butt
,, Le Neve *v.* Vestry of the Hamlet of Mile-end Old-town

FOR ARGUMENT.

Moved Easter Term, 1857.

North'land—Heald *v.* Pickersgill, *S O*

Moved Mich. Term, 1857.

Midd.—Betts *v.* Menzies
Lond.—Seed *v.* Higgins (2nd day of Term)
,, Beckwith *v.* Bullin
,, Lee & ors. *v.* Bullen
,, Prince of Wales Life & Educational Assurance Company *v.* Harding (Part heard)
Bucks—Brown *v.* Collier
Bristol—Begby & ors. *v.* Fry & an.
,, Blackmore *v.* Bristol and Exeter Railway Co.
Denbigh—Brellesford *v.* Berry
Essex—Clark *v.* Stormont
,, Pallier *v.* Papineau
Sussex—Woods *v.* May
Herts—Ransom *v.* Goodwin
Glos'ter—Miller *v.* Draper
,, Haddock *v.* Trotman
Oxford—Reg. *v.* Inhabs. of Temple Cowley
,, Same *v.* Inhabs. of St. Clement
York—Hall *v.* Carlton
,, Woolliscroft *v.* Watson
,, Reg. *v.* Jowett
Lancaster—Thistlewood *v.* Lambert
,, Lancaster & Carlisle Railway Co. *v.* Heaton & an.
,, Prescott *v.* Cross

Tried during Term.

Midd.—Bristow *v.* Parry
,, Justice *v.* Elstob
Lond.—Topham *v.* Morecraft.

SPECIAL CASES.

FOR HILARY TERM, 1858.

Those marked thus * are Special Cases, and thus † Demurrers.

FOR JUDGMENT.

*Benoni & Wife *v.* Backhouse
*Wallas *v.* Same
*Longstaff *v.* Same
*Robinson *v.* Same
*Thompson *v.* Same

FOR ARGUMENT.

†Chamberlaine *v.* Willoughby (Stands for arrangement)
*Swindell & an. *v.* Company of Proprietors of the Birmingham Canal Navigation
Lonsdale *v.* Mitchell (Appeal from County Court of Yorkshire)
*Jackson *v.* Woolley & Wife
Clifford *v.* Roberts & an. (Appeal from County Court of Surrey)
Kitchen *v.* Irving (App. from County Court of Cheshire)
†Scott *v.* Littledale & ors.
Beard & an. *v.* Knight & an. (Appeal from County Court of Sussex)
Hamilton *v.* Shackles (Error)
†Itchin Bridge Co. *v.* Local Board of Health
*Nicholson *v.* Ellis
†Unity General Assurance Association *v.* Baylis
*Lee & an. *v.* Rowley.

ENLARGED RULES

FOR HILARY TERM, 1858.

First Day.

In re Trenchard and Harrison
Reg. *v.* Mayor, Aldermen, and Burgesses of Liverpool
Reg. *v.* Vestry of the Parish St. George in the East
Same *v.* Justices of Glamorganshire

Fifth Day.
Reg. *v.* Llynvi Valley Railway Co.

Last day but one of Term.
Reg. *v.* Guardians of the City of London Union.

CROWN PAPER, HILARY TERM, 1858.

Hampshire....	Reg. *v.* Packwick.
Exeter	——— Inhabs. of the Parish of Crediton.
Kent	Secretary of the North Kent Railway Company *v.* Badger.
Westmoreland..	Park *v.* Foster.
Middlesex	Christie *v.* Guardians of the Poor of St. Luke's, Chelsea.
Tynemouth....	Arkle *v.* Henzell.
Worcestershire	Reg. *v.* Matty.
Kent	——— Budden.
Carnarvonshire	——— Inhabitants in Caerwys
Northampton..	——— Inhabitants of Maen Ashby.
Lancashire....	Elias *v.* Nightingale.
Newcastle-upon-Tyne........	Henry *v.* Master, Pilots, and Brethren of the Trinity House.
Montgomeryshire	Maddins *v.* Williams.
Northumberland	Hodgson *v.* Dickinson.
Kent	Badger *v.* Denn.
Devonshire....	Reg. *v.* Tiverton Burial Board.
Hants	Cambridge *v.* Potts.
Kent	Reg. *v.* Forrest.

◆

Court of Common Pleas.

NEW TRIALS.

MICH. TERM, 1857.
Chester—Highfield *v.* Massey
Lond.—Gresler *v.* King
,, General Steam Navigation Co. *v.* Rolt
Essex—Fitzgerald *v.* Martin
Midd.—Perry *v.* Davis
Bristol—Hybart *v.* Evens'
Lond.—Rusbourg *v.* Bruckner
Lond.—Moor *v.* Roberts
Surrey—Patent Bottle Envelope Co. *v.* Seymer
Lond.—London and Eastern Banking Corporation *v.* Cubitt
Surrey—Haynes *v.* Mechi
Lond.—Moses *v.* Taylor
Surrey—Sydney *v.* Nicol
Lond.—Berwick *v.* Horsfall.

DEMURRER PAPER.

Those marked thus † are Demurrers.

Monday .... *Jan.* 11	Motions in arrest of judgment.
Tuesday 12	
Wednesday...... 13	
Thursday 14	
Monday 18	Special arguments.

Powis *v.* Butler
Ogar *v.* Official Manager of the Athenæum Life Assurance Co.
Drury *v.* Baldry
†Sinnott *v.* Board of Works of Whitechapel District
In re Newall and Elliott
†Kempton *v.* Theobald

Thursday, Jan. 21.
†Tabor *v.* Edwards
Sheridan *v.* New Quay Co.
Boyd *v.* Robins.

ENLARGED RULES.

First Day.
Nutt *v.* Midland Railway Co.
Moy *v.* Eastern Counties Railway Co.

Second Day.
Barwell *v.* Eastern Counties Railway Co.
Nicholson *v.* Great Western Railway Co.
In re Webster

Third Day.
Slipper *v.* Back
Erwin *v.* Same

Fifth Day.
Harris *v.* Cockermouth and Workingham Railway Co.
Walker *v.* Whitaker (Until proceedings in Chancery are disposed of)
Broadbent *v.* Imperial Gaslight and Coke Co. (Until judgment given in House of Lords)
Walker *v.* Bartlett (Until application in Exchequer disposed of).

CUR. ADV. VULT.

Poppleton *v.* Buchanan
West *v.* Robson
Fry *v.* Russell
Kendall *v.* Allison.

Court of Exchequer.

SITTINGS—HILARY TERM, 1858.

Days in Term.	*Banc.*	*Nisi Prius.*
Monday .... *Jan.* 11	Motions.	....
Tuesday 12	Errors.	Midd. 1st sitting.
Wednesday...... 13	....	....
Thursday 14	....	....
Friday 15	....	....
Saturday 16	....	....
Monday 18	Special Paper.	Lond. 1st sitting.
Tuesday 19	....	....
Wednesday...... 20	Special Paper.	Midd. 2nd sitting.
Thursday 21	Circuits chosen.	....
Friday 22	....	....
Saturday........ 23	Criminal Appeals.	....
Monday 25	Special Paper.	Lond. 2nd sitting.
Tuesday 26	....	....
Wednesday...... 27	Special Paper.	Midd. 3rd sitting.
Thursday 28	....	....
Friday 29	....	....
Saturday 30	....	....
Monday .... *Feb.* 1	....	....

NEW TRIALS.

FOR JUDGMENT.
Glo'ster—Holles *v.* Marshall
Midd.—Glave *v.* Harding

FOR ARGUMENT.
Lond.—Bovill *v.* Primm
Midd.—Burling *v.* Harley
Lond.—Irving *v.* Gray
,, Whitmore *v.* Northcott
,, Burton *v.* Furniss
Croydon—Attenborough *v.* Clark
Monmouth—Latch *v.* Rumney Railway Co.
,, Chapman *v.* Monmouth Railway and Canal Co.
,, Jones *v.* Same
Glo'ster—Ruck *v.* Williams
Newcastle—Suter *v.* Burrell
Liv'pool—M'Manus *v.* Lancashire & Yorkshire Railway Co.
,, Vose *v.* Same
Liv'pool—Assop *v.* Yates
,, Manley *v.* St. Helens Canal and Railway Co.
Camb.—Phillips *v.* Naylor
Ruthin—Rogers *v.* Taylor
Mold—Williams *v.* Eyton
Chester—Read *v.* Hughes
Winchester—Lee *v.* Dashwood
Bodmin—Ley *v.* Peter
Bristol—Gurney *v.* Evans
North'ton.—Bower *v.* Morley
Warwick—Lucas *v.* Tarleton
,, Hobson *v.* Cowley
,, Atkinson *v.* Buswell
Haverfordwest—Williams *v.* Morgan
Brecon—Price *v.* Price

Moved after the fourth Day of Mich. Term, 1857.
Midd.—Bateman *v.* Mayor, &c. of Ashton-under-Lyne.

SPECIAL PAPER.

Those marked thus * are Special Cases, and thus † Demurrers.

FOR JUDGMENT.
*Preston *v.* Norfolk Railway Co. & the Eastern Counties Railway Co.
†Miushull *v.* Oakes

FOR ARGUMENT.
†Brewer *v.* Dimmack (Pt. hd., standing for arrangement)
*Barstow *v.* Reynolds (Pt. hd., to stand over until point in Exch. Cham. is disposed of)
*Walker *v.* Goe (To stand over until point in Exch. Cham. is disposed of)
†Kindersley *v.* Grey (Standing over by consent for arrangement)
*Edmonds *v.* Eastwood
*Wilby *v.* West Cornwall Railway Co.
†Whitmore *v.* Northcott
*Shaw *v.* Stenton
Carter *v.* Hughes.

ERRORS AND APPEALS FROM THE COURT OF EXCHEQUER.

On Tuesday, Jan. 12, *at ten o'clock.*

FOR JUDGMENT.
Gibbs *v.* Trustees of the Liverpool Docks (Error)
Laing *v.* Whaley (Error)
Lindus *v.* Melrose (App.)

FOR ARGUMENT.
Great Western Railway Co. *v.* Crouch (App.)

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed Arthur Weston, Gent., of Brackley, Northamptonshire, to be a Commissioner to administer oaths in the High Court of Chancery in England.

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and *J. Matthews*, Sheffield, turn-screw makers, Jan. 23 at 10, Sheffield.—*John Stocks Booth*, Sheffield, pianoforte dealer, Jan. 23 at 10, Sheffield.

To be granted, unless an Appeal be duly entered.

Richard Sydney Lambert, Bristol, dealer in manure.—*John Bowbeer*, Bristol, oilman.—*Joseph Halford*, Cheltenham, Gloucestershire, ironmonger.—*Thomas Oliver*, Prestbury, near Cheltenham, Gloucestershire, livery-stable keeper.—*William Smith*, Bath, Somersetshire, hotel keeper.—*Ellis Williams*, Black Bridge Foundry, Holyhead, Anglesea.—*Luke Priestly*, Bradford, Yorkshire, worsted manufacturer.

PETITIONS ANNULLED.

William Middleton, Manchester, leather merchant.—*Edward Leece*, Whittle-le-Woods, Lancashire, cotton spinner.

PARTNERSHIP DISSOLVED.

Wm. Stringer and *Wm. Alexander Everest*, New Romney, Kent, attornies-at-law and solicitors.

SCOTCH SEQUESTRATIONS.

John Macdonald, Musselburgh, banker.—*Ronalds & Co.*, Paisley, shawl manufacturers.—*George Oughterson*, Greenock, wood merchant.—*Robert Blair & Co.*, Glasgow, shawl fringers.—*Peter M'Laren*, Glasgow, ship carpenter.

TUESDAY, *Jan. 5.*

BANKRUPTS.

JOHN BROADHURST, Sutherland-place, Walworth, Surrey, spiced beef manufacturer, Jan. 22 at 11, and Feb. 16 at 2, London: Off. Ass. Stansfeld; Sols. Trinder & Eyre, 1, John-street, Bedford-row.—Pet. f. Dec. 22.

JOHN LEVY MIERS, Fore-street, Cripplegate, City, wholesale clothier, Jan. 15 at 2, and Feb. 16 at 12, London: Off. Ass. Graham; Sols. George & Downing, 5, Sise-lane, London.—Pet. f. Jan. 1.

ROBERT KING, Pentonville-road, Middlesex, builder, Jan. 15 at 11, and Feb. 16 at 1, London: Off. Ass. Stansfeld; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. Jan. 1.

EDWARD BAKER, Rosherville, Northfleet, Kent, hotel keeper, Jan. 19 at half-past 2, and Feb. 16 at 1, London: Off. Ass. Lee; Sols. Wilkinson & Stevens, 2, Nicholas-lane, Lombard-street.—Pet. f. Dec. 22.

JOHN LEWIS EVANS, Longton, Staffordshire, grocer, Jan. 21 and Feb. 11 at half-past 11, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham.—Pet. d. Jan. 4.

RICHARD JOHN STRONG, Frome, Somersetshire, hotel keeper, Jan. 18 and Feb. 23 at 11, Bristol: Off. Ass. Miller; Sol. Cartwright, Bristol.—Pet. f. Dec. 21.

JOHN LEAKEY BOWHAY, Modbury, Devonshire, agricultural implement maker, Jan. 12 and Feb. 9 at 11, Exeter: Off. Ass. Hirtzel; Sols. Rooker & Co., Plymouth; Stogdon, Exeter.—Pet. f. Jan. 1.

JOSHUA FEARNLEY and JOSEPH FEARNLEY, Brighouse, Yorkshire, silk dressers, Jan. 21 and Feb. 19 at 11, Leeds: Off. Ass. Young; Sols. Wainwright, Wakefield; Bond & Barwick, Leeds.—Pet. d. and f. Jan. 1.

CHATBURN COCKCROFT, Stansfield, Halifax, Yorkshire, pickle maker, Jan. 19 at half-past 11, and Feb. 16 at 11, Leeds: Off. Ass. Hope; Sols. Mitchell, Halifax; Bond & Barwick, Leeds.—Pet. d. Jan. 1.

HENRY BARTON, Liverpool, shipowner, Jan. 15 and Feb. 11 at 11, Liverpool: Off. Ass. Turner; Sols. Duncan & Co., Liverpool.—Pet. f. Dec. 31.

JOHN CAMPBELL M'DONALD, Liverpool, wine merchant, (carrying on business with Andrew Thompson Honeyman Dalziel), Jan. 15 and Feb. 11 at 11, Liverpool: Off. Ass. Turner; Sol. Stone, Liverpool.—Pet. f. Dec. 29.

EDEN CLARK, Manchester, hardware dealer, Jan. 18 at 1, and Feb. 8 at 12, Manchester: Off. Ass. Fraser; Sols. Hodgson, Birmingham; Sale & Co., Manchester.—Pet. f. Dec. 24.

WILLIAM HARRIS, Bolton, Lancashire, manufacturing chemist, (now or lately carrying on business with Joseph Harris under the style or firm of Joseph Harris), Jan. 21 and Feb. 11 at 1, Manchester: Off. Ass. Hernaman; Sols. Richardson & Co., Manchester.—Pet. f. Dec. 31.

JOHN SHAWCROSS, Bowdon, Cheshire, and Manchester, cotton spinner, Jan. 18 and Feb. 10 at 12, Manchester: Off. Ass. Fraser; Sols. Atkinson & Co., Manchester.—Pet. f. Dec. 31.

MEETINGS.

George Boys, Bromley, builder, Jan. 15 at 11, London, aud. ac.—*Martin Nunn*, Regent-circus, Oxford-street, laceman, Jan. 15 at 11, London, aud. ac.—*J. M. Van Winkle*, Poultry, City, tavern keeper, Jan. 15 at 2, London, aud. ac.—*T. W. Gilbert*, Railway-place, Fenchurch-street, City, and Narrow-street, Limehouse, Middlesex, sail maker, Jan. 15 at 11, London, aud. ac.—*Wm. Tull*, Andover, Hampshire, grocer, Jan. 22 at 11, London, aud. ac.—*Wm. C. Wells*, Swaffham, Norfolk, stationer, Jan. 22 at half-past 11, London. aud. ac.—*Henry Marlow*, Walsall, Staffordshire, ironfounder, Jan. 20 at 10, Birmingham, aud. ac.—*Wm. Miles*, Mark-lane, City, and Hornchurch, Essex, corn merchant, Jan. 27 at half-past 12, London, div.—*G. Gull* and *F. D. Wilson*, Old Broad-street, City, Russia brokers, Jan. 27 at half-past 1, London, div. joint est., and div. sep. est. of *F. D. Wilson*.—*Wm. Jarvis*, Newmarket St. Mary, Suffolk, innkeeper, Jan. 27 at 2, London, div.—*John Mapp* the younger, Gray's-inn-lane, Middlesex, licensed victualler, Jan. 27 at half-past 12, London, div.—*James Castle*, Little Farringdon Mill, near Lechlade, Berkshire, miller, Jan. 27 at 11, London, div.—*R. R. Bealey* and *D. Bealey*, Manchester, shirt manufacturers, Jan. 22 at 12, Manchester, aud. ac.; Jan. 28 at 12, div.—*T. B. M'Manus*, Liverpool, commission agent, Jan. 26 at 11, Liverpool, div.—*Joshua Gibson* and *Joseph M'Glasson*, Liverpool, silk mercers, Jan. 27 at 12, Liverpool, div.—*Thomas Wright*, Birkenhead, Cheshire, ironmonger, Jan. 27 at 11, Liverpool, div.—*Joseph Johnson* the younger, Liverpool, estate agent, Jan. 26 at 11, Liverpool, div.—*Wm. Coupland* and *Wm. B. Colton*, Liverpool, merchants, Jan. 27 at 11, Liverpool, div.—*James Potts*, Monks Coppenhall, Cheshire, brickmaker, Jan. 26 at 11, Liverpool, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Frederick Wm. Cox, Southampton, grocer, Jan. 29 at 11, London.—*Thomas J. Dore*, Stour Provost, Dorsetshire, innkeeper, Jan. 28 at half-past 11, London.—*H. Hall* and *C. Hall*, New Boswell-court, Lincoln's-inn, and Neasdon, Middlesex, cattle dealers, Jan. 28 at 11, London.—*H. Newgass*, Newgate-street, City, dealer in photographic apparatus, Jan. 27 at 12, London.—*Thomas Gratwick*, Camberwell-green, and High-street, Southwark, cheesemonger, Jan. 27 at 1, London.—*Wm. C. Barnes* and *Wm. Cordingley*, Bow-common, Middlesex, manufacturing chemists, Jan. 27 at 12, London.—*J. Simes*, George-street, Portman-square, Middlesex, painter, Jan. 26 at 1, London.—*Robert Clough*, Oxford-street, Middlesex, hosier, Jan. 26 at 1, London.—*Michael Banes*, Watling-street, City, warehouseman, Jan. 26 at 12, London.—*C. Henry Purday*, Maddox-street, Hanover-square, Middlesex, music publisher, Jan. 26 at 2, London.—*Frederick G. Earle*, Salisbury-street, Strand, Middlesex, commission agent, Jan. 26 at half-past 2, London.—*H. A. Bentham*, Sunderland, Durham, shipowner, Jan. 26 at 11, Newcastle-upon-Tyne.—*John Slade* and *James T. Vining*, Yeovil, Somersetshire, attornies, Jan. 26 at 11, Exeter.—*John Wilkinson*, Warrington, Lancashire, grocer, Jan. 28 at 12, Manchester.—*John L. Bagot*, Liverpool, woollen draper, Jan. 26 at 11, Liverpool.—*John Howl*, Darlaston, Staffordshire, screw bolt manufacturer, Jan. 29 at 10, Birmingham.—*John Johnson*, Wakefield, Yorkshire, upholsterer, Jan. 28 at 11, Leeds.

To be granted, unless an Appeal be duly entered.

Charles Higgins, Salisbury, Wiltshire, brewer.—*J. Rolfe* the younger, Leadenhall-street, City, tailor.—*William Carr*, Bishopsgate-street Without, Middlesex, and Walworth-road, Surrey, cheesemonger.—*William Buddle*, Delamere-terrace, Paddington, Middlesex, builder.

PARTNERSHIPS DISSOLVED.

Charles Corser, *Henry Underhill*, and *James Edward Underhill*, Wolverhampton, Staffordshire, attornies and solicitors.—*John Nokes* and *Walter F. Nokes*, George-yard, Lombard-street, City, attornies and solicitors.—*Charles R. Gibson* and *Edward Wates*, Dartford and Gravesend, attornies and solicitors.—*James Ralfe*, *Isaac Warner*, and *Charles Warner*, Winchester, attornies-at-law and solicitors.

REPORT of the DIRECTORS of the CLERICAL, MEDICAL, and GENERAL LIFE ASSURANCE SOCIETY, presented at the Annual General Meeting, held at the Society's Office, No. 13, St. James's-square, London, FRIDAY, the 27th November, 1857.

It will be in the recollection of the Proprietors that at two Extraordinary General Meetings, held on the 1st and 28th January last, the period for holding the Annual Meetings was altered from March to November, in order that *earlier* publicity might be given to the state of the Society's affairs at the end of June, that being the period fixed by the Deed for the termination of each financial year. In consequence of this alteration no Meeting took place in March last, and it is therefore now the duty of the Directors to lay before this Meeting a statement of the transactions of the Society for the *two* years ending the 30th June, 1857.

The number of New Policies issued within that period was 1097;
The amount of Assurances granted was 605,300*l.*; and
The New Premiums arising therefrom amount to 20,729*l.* per annum.

The Assurance Fund, notwithstanding the payment in cash of 65,384*l.* as Bonus since the declaration in January, has increased during the two years by no less a sum than 55,676*l.*

From these facts it will be readily perceived that during the period under notice the progress of the Society has been in no degree retarded by the effects of the war, by the state of the money market, or by the active competition which has existed amongst kindred institutions.

After the full and comprehensive statements made at the Extraordinary Meeting in January last, when the SIXTH BONUS was declared, the Directors feel that there is little further now to communicate; but they cannot refrain from mentioning that the Bonus then divided, which averaged 46*l.* per cent. in Reversion, and 27*l.* per cent. in cash, on the Premiums received since 1851, has given general satisfaction, and has tended materially to sustain and advance the high estimation in which the Society has been so long held by the Public.

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Printed by HENRY HANSARD, at his Printing Office, in Parker Street, in the Parish of St. Giles-in-the-Fields, in the County of Middlesex; and Published at No. 3, CHANCERY LANE, in the Parish of St. Dunstan in the West, in the City of London, by HENRY SWEET, residing at No. 34, Porchester Terrace, Bayswater, in the County of Middlesex.—Saturday, January 9, 1858.

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THE STATUTES

PASSED IN THE SESSION 1857—20 & 21 VICTORIA.

CAP. I.

An Act for the Amendment of the Cinque Ports Act. [26th June, 1857.]

Sect. 1. *Sect.* 5 *of recited act not to apply to any district until her Majesty shall have granted a commission of the peace and a court of quarter sessions thereto.*

Whereas by an act passed in the 18 & 19 Vict. [c. 48], intituled "An Act for the better Administration of Justice in the Cinque Ports," it was enacted, (by the 5th section), that from and after the granting of a charter of incorporation to certain parishes or places therein mentioned, amongst which was St. John the Baptist, (called Margate), or any one of them, or any part thereof, certain acts and portions of acts therein mentioned should be and the same were thereby repealed, so far as the same concerned or affected the part comprised in such charter, and that from and after the date of such charter no court of sessions to be holden for the town and port of Dover, nor any justices thereof, should have any jurisdiction or authority over or in respect of the district comprised in any such charter, and no such district should be liable to any rate, cess, or impost to which the same or the inhabitants thereof would, but for the now reciting act be liable as a member or liberty of Dover, save as thereinafter otherwise provided: and whereas the inhabitant householders of the town of Margate, being part of the said parish of St. John the Baptist, called Margate, have, in pursuance of the provisions of an act passed in the 7 Will. 4 & 1 Vict. [c. 78], intituled "An Act to amend an Act for the Regulation of Municipal Corporations in England and Wales," petitioned her Majesty to grant a charter of incorporation to the inhabitants of the said town of Margate, within the limits defined in the schedule to an order of the General Board of Health, bearing date the 3rd July, 1851, whereby and by means of the Public Health Supplemental Act, 1851, No. 2, the Public Health Act was applied to the said town: and whereas notice of such petition, and of the time when the same was ordered by her Majesty to be taken into consideration by her Privy Council, was duly published in the London Gazette one month at least before such petition was considered, as hereinafter mentioned: and whereas her Majesty's said Privy Council did proceed to consider the said petition, and having fully considered it, have advised her Majesty to grant a charter of incorporation to the inhabitants of the said town of Margate, within the district set forth in the said order of the General Board of Health: and whereas, if such charter as aforesaid be granted, the provisions of the said recited act with respect to the district comprised in such charter will take effect, and thenceforward, and until the grant of a commission of the peace and quarter sessions of the peace for such district, inconveniences may arise unless the said recited act be amended: and whereas it is expedient that the said recited act should be amended: be it therefore enacted &c. as follows:—

Sect. 1. The provisions contained in the 5th section of the said recited act shall not apply or have any effect with reference to any district comprised within any charter of incorporation to be granted to any parish or place mentioned in the said act, or any part thereof, unless and until her Majesty shall have granted a commission of the peace and a court of quarter sessions for the district comprised in any such charter, but on the grant of a commission of the peace and court of quarter sessions to any such district the said provisions contained in sect. 5 of the said recited act shall thereupon take effect and come into force with respect to such district.

CAP. II.

An Act to enable Her Majesty to settle an Annuity on her Royal Highness the Princess Royal. [26th June, 1857.]

Sect. 1. Power to her Majesty to grant an annuity of 8000*l.* to her Royal Highness the Princess Royal for her life.

CAP. III.

An Act to amend the Act of the Sixteenth and Seventeenth Years of her Majesty, to substitute in certain Cases other Punishment in lieu of Transportation. [26th June, 1857.]

Sect. 1. *Sects.* 1, 2, 3, *and* 4 *of recited act repealed.*
2. *Sentence of transportation abolished, and sentence of penal servitude substituted.*
3. *Provisions of acts concerning transported offenders to apply to offenders under sentence of penal servitude.*
4. *Existing power to appoint places of transportation to be applicable for the purposes of this act.*
5. *Magistrates may recommit convicts, whose licenses are revoked, to penal servitude in any convict prison.*
6. *All enactments referring to transportation to have reference to penal servitude.*
7. *Recited act and this act to be read as one.*
8. *Commencement of act.*

Whereas an act was passed in the session holden in the 16 & 17 Vict. c. 99, to substitute in certain cases other punishment in lieu of transportation, and it is expedient that such act should be amended; be it therefore enacted &c. as follows:—

Sect. 1. Sects. 1, 2, 3, and 4 of the said act shall be repealed.

2. After the commencement of this act no person shall be sentenced to transportation; and any person who, if this act and the said act had not been passed, might have been sentenced to transportation, shall, after the commencement of this act, be liable to be sentenced to be kept in penal servitude for a term of the same duration as the term of transportation to which such person would have been liable if the said act and this act had not been passed; and in every case where, at the discretion of the court, one of any two or more terms of transportation might have been awarded, the court shall have the like discretion to award one of any two or more of the terms of penal servitude which are hereby authorised to be awarded instead of such terms of transportation: provided always, that any person who might at the discretion of the court have been sentenced either to transportation for any term or to any period of imprisonment, shall be liable, at the discretion of the court, to be sentenced either to penal servitude for the same term or to the same period of imprisonment; and in any case in which before the passing of the said act sentence of seven years' transportation might have been passed, it shall be lawful for the court in its discretion to pass a sentence of penal servitude of not less than three years.

3. And whereas the provisions applicable to persons under sentence of transportation extend to persons under sentence of penal servitude conveyed to parts beyond the seas in those cases only where they are conveyed to and kept in places of confinement appointed under the said act or the act of the 5 Geo. 4, c. 84, and it is expedient to extend the said provisions to other cases:

Any person now or hereafter under sentence or order of penal servitude may, during the term of the sentence or order, be conveyed to any place or places beyond the seas to which offenders under sentence or order of transportation may be conveyed, or to any place or places beyond the seas which may be hereafter appointed as herein mentioned; and all acts and provisions now applicable to and for the removal and transportation of offenders under sentence or order of transportation to and from any places beyond the seas, and concerning their custody, management, and control, and the property in their services, and the punishment of such offenders if at large without lawful cause before the expiration of their sentence, and all other provisions now applicable to and in the case of persons under sentence or order of transportation, shall apply to and in the case of persons under sentence or order of penal servitude, as if they were persons under sentence or order of transportation.

4. The provisions and powers of the said act of the 5 Geo. 4, authorising the appointment (by her Majesty, with the advice of her Privy Council) of any place or places beyond the seas to which felons and other offenders under sentence or order of transportation shall be conveyed, and all other powers of her Majesty, or the lord-lieutenant or chief governor or governors of Ireland, for the like purpose, shall extend and be applicable to and for the appointment of any place or places beyond the seas to which offenders under sentence or order of penal servitude may be conveyed, as herein provided.

5. And whereas by the said act of the 16 & 17 Vict. it is provided, that any convict whose license is revoked shall be recommitted to the prison or place of confinement from which he was released by virtue of the said license: be it enacted, that from and after the passing of this act any such convict may be recommitted by the magistrate issuing his warrant in that behalf, either to the prison from which he was released by virtue of his license, or to any other prison in which convicts under sentence of penal servitude may be lawfully confined.

6. Where, in any enactment now in force, the expression "any crime punishable with transportation," or "any crime punishable by law with transportation," or any expression of the like import, is used, the enactment shall be construed and take effect as applicable also to any crime punishable with penal servitude.

7. The said act of the 16 & 17 Vict. and this act shall be read and construed together as one act.

8. This act shall commence on the 1st July, 1857.

CAP. IV.

An Act to apply the Sum of Eight Millions out of the Consolidated Fund to the Service of the Year 1857.
[3rd July, 1857.]

CAP. V.

An Act to continue the Act for extending for a limited Time the Provision for Abatement of Income Tax in respect of Insurance on Lives. [3rd July, 1857.]

Sect. 1. The 16 & 17 Vict. c. 91, continued until the 6th April, 1860.

CAP. VI.

An Act to alter the Constitution and amend the Procedure of the Court of Exchequer Chamber in Ireland.
[3rd July, 1857.]

Sect. 1. *Appeals from one court to judges of two other courts.*
2. *Act not to affect Chief Justices or Chief Baron.*
3. *Procedure in error shall be uniform. No error to be brought in cases in which error cannot now be brought.*
4. *Power to make general orders.*

Whereas by an act of the session of the Parliament of Ireland holden in the 40 Geo. 3, c. 39, writs of error upon judgments of the superior courts of law in Ireland were made returnable in the court thereby constituted, and since commonly called the Court of Exchequer Chamber, and the chief justices, chief barons, and the rest of the justices and barons, or any nine of them assembled in the said court, were empowered to examine and affirm or reverse such judgments: and whereas by an act of the session of Parliament holden in the 1 Geo. 4, c. 68, increased powers were given to the said Court of Exchequer Chamber: and whereas by the Common-law Procedure Amendment Act, (Ireland), 1853, and the Common-law Procedure Amendment Act, (Ireland), 1856, further provision was made for the bringing of error and appeals into the said Court of Exchequer Chamber: and whereas it is expedient that the procedure in error in the said court should be rendered uniform, and that all proceedings in error and upon appeals brought into the said court on judgments and other proceedings of any of the Courts of Queen's Bench, Common Pleas, and Exchequer should be before the justices only, or the justices and barons only, as the case may be, of the two other of the said last-mentioned courts: be it therefore enacted &c. as follows:—

Sect. 1. In all cases in which error or an appeal shall, after the passing of this act, be brought into the said Court of Exchequer Chamber upon any judgment or other proceeding of any of the Courts of Queen's Bench, Common Pleas, or Exchequer, the proceedings in the said Court of Exchequer Chamber in error, or upon such appeal, shall be before the chief justices and justices only, or chief justice and justices, chief baron and barons only, as the case may be, of the two other of the said courts, or any six or more of them.

2. Nothing in this act contained shall in any way affect the power or jurisdiction of either of the chief justices or the chief baron to fix the sittings of the said court, or (save in proceedings in error or upon appeal, to which the last preceding section shall apply) to do any other thing in or relating to the said court.

3. In order that the procedure in error in the said Court of Exchequer Chamber upon all judgments and proceedings of the superior courts of law may be rendered, so far as possible, uniform, the enactments of the Common-law Procedure Amendment Act, (Ireland), 1853, with respect to the bringing of error into the said Court of Exchequer Chamber, and the rules and orders made or to be made in pursuance of the said act, shall extend to and include the bringing of error in the said Court of Exchequer Chamber upon all judgments and proceedings of the Court of Chancery as a court of law, of the Courts of Queen's Bench, Common Pleas, and Exchequer, as well in Crown as in all other cases in which error upon such judgments or proceedings may now be brought in the said Court of Exchequer Chamber; and the procedure in error in the said Court of Exchequer Chamber, and the proceedings consequent thereon, shall, so far as practicable, in all such cases be pursuant to the said Common-law Procedure Amendment Act, (Ireland), 1853, and the said rules made or to be made under the said act: provided, that nothing in this act contained shall be construed to enable error to be brought in cases in which error cannot now be brought: provided also, that where any fiat or consent is now required in any proceeding in error, such fiat or consent shall continue to be required in the corresponding proceeding in error under this act.

4. The power to make general orders for the said Court of Exchequer Chamber, under sect. 233 of the Common-law Procedure Amendment Act, (Ireland), 1853, shall extend to all proceedings in error in the said court.

CAP. VII.

An Act to revive and amend certain Acts relating to the Collection of County Cess in Ireland; and also to provide for the appointment, in certain Cases, of Collectors to levy the Charges and Expenses of additional Constabulary appointed under the Act 19 & 20 Vict. c. 36.
[3rd July, 1857.]

Sect. 1. Stat. 11 & 12 Vict. c. 32, revived, and continued to the end of the year 1859.

2. Justices may take security for collectors.

3. Stat. 19 & 20 Vict. c. 36. Power to Lord Lieutenant to appoint persons to collect charges and expenses of additional constabulary force.

4. Collectors so appointed to have same powers as collectors of county cess in last-recited act.

5. Lord Lieutenant may require collectors of county cess to levy such charges.

6. "Lord Lieutenant."

CAP. VIII.

An Act to amend the Act 17 & 18 Vict. c. 11, with a View to the Abolition of Ministers Money in Ireland.
[3rd July, 1857.]

Sect. 1. Sects. 2—7, 9, and 11 of the 17 & 18 Vict. c. 11, repealed.

2. No proceedings to be taken to recover arrears.

3. Not to interfere with rights of incumbents to be paid by Ecclesiastical Commissioners.

CAP. IX.

An Act to confirm certain Provisional Orders made under an Act of the Fifteenth Year of Her present Majesty, to facilitate Arrangements for the Relief of Turnpike Trusts.
[13th July, 1857.]

CAP. X.

An Act to amend the Charter of Incorporation granted to the Borough of Hanley, in the County of Stafford. [13th July, 1857.]

CAP. XI.

An Act to amend "The Militia (Ireland) Act, 1854." [13th July, 1857.]

CAP. XII.

An Act to carry into effect a Convention between her Majesty and the King of Denmark. [13th July, 1857.]

Sect. 1. *Power to Treasury to direct payment of* 1,125,206*l.*, *in accordance with recited convention.*

Whereas a treaty was concluded on the 14th March, 1857, between her Majesty and other high contracting parties of the one part, and the King of Denmark of the other part, (and has been duly ratified), containing arrangements for the abolition of tolls levied on vessels and their cargoes passing the Sound and the Belts, and for the reduction of the duties on goods passing in transit by the various lines of communication which connect the North Sea and the Elbe with the Baltic, and for the payment by the other contracting parties to the King of Denmark, in compensation for the sacrifices which the treaty imposed on him, of the total sum of 35,000,000 rigs dollars, of which the proportion falling to the charge of Great Britain was 10,126,855 rigs dollars: and whereas a convention was also concluded on the said 14th March, 1857, between her Majesty and the King of Denmark, (and has been duly ratified), by which her Majesty engaged to recommend to her Parliament to enable her to pay to the King of Denmark the said sum of 10,126,855 rigs dollars; and by art. 2 of the said convention it is provided, that the said sum of 10,126,855 rigs dollars "shall be converted into sterling money, at the rate of nine rigs dollars to the pound sterling, and thus amounts to the sum of 1,125,206*l.* sterling; this sum shall be paid at London to such person as may be authorised by his Majesty the King of Denmark to receive the same, within three months after the requisite act shall have been passed by the Parliament of her Britannic Majesty:" and whereas, in pursuance of her Majesty's gracious recommendation in this behalf, it is expedient that her Majesty should be enabled to carry into effect the said convention with the King of Denmark: be it therefore enacted as follows:—

Sect. 1. It shall be lawful for the Commissioners of her Majesty's Treasury to direct and cause to be issued and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland the sum of 1,125,206*l.*, at the time and in manner provided by the said convention for such payment, and conformably to her Majesty's engagement in this behalf.

CAP. XIII.

An Act to facilitate the procuring of Sites for Workhouses in certain Cases. [13th July, 1857.]

Sect. 1. *Provision for the acquisition of sites for workhouses, when the land belongs to an ecclesiastical corporation sole unsound in mind.*
2. *Certain consents to be obtained to the acquisition. Application of purchase money.*
3. *Application of dividends or annual income until investment.*
4. *How consent of patron, &c. to be given.*
5. *Provision where the right of patronage is in the Crown, the Duke of Cornwall, or in persons under disability.*
6. *Interpretation of the word "benefice."*
7. *Provisions of the* 7 *Will.* 4 *&* 1 *Vict. c.* 50, *and interpretation of terms in the* 4 *&* 5 *Will.* 4, *c.* 76, *and the* 16 *&* 17 *Vict. c.* 70, *to apply.*

Whereas it is provided by the act of the 5 & 6 Will. 4, c. 69, that any ecclesiastical corporation sole may dispose of, by way of absolute sale, or in exchange for any messuages, lands, or other hereditaments, any lands or buildings for the purpose of the same being used as or converted into a workhouse, or of being occupied with a workhouse, or for any other purpose relating to the relief of the poor which the Poor-law Commissioners might approve of, and to convey the same, and the fee-simple and inheritance thereof, unto the guardians of any union or parish, or their successors, and to accept from and give to such guardians any monies by way of equality of exchange: and whereas difficulty has arisen in carrying this provision into execution where the person who constitutes any ecclesiastical corporation sole is insane, and it is expedient to provide a remedy in such cases: be it therefore enacted &c. as follows:—

Sect. 1. If the guardians of any union or parish, or the managers of any school district, shall be desirous of purchasing or of exchanging, for the purposes mentioned in the said act, or in any act incorporated therewith, or extending or explaining the same, any land or building belonging to any ecclesiastical corporation sole, and the person for the time being entitled to such land or building by virtue of his office shall be found, upon a commission issued by the Lord Chancellor, intrusted as in the act of the 16 & 17 Vict. c. 70, to be insane, it shall be competent for such guardians or managers to petition the said Lord Chancellor, intrusted as aforesaid, for leave to purchase or exchange any such land or buildings so belonging to such corporation sole, and upon such petition the said Lord Chancellor may make such order as shall seem to him to be proper; and if he shall see fit to authorise the sale or exchange of any land or building, the same shall, on behalf of such corporation sole, be conveyed to or received in exchange from such guardians or managers, as the case may be, (with the consent of the ordinary having jurisdiction over such corporation sole, and with such further consents, if necessary, as are hereinafter mentioned), by such person as the said Lord Chancellor shall by order appoint, and the purchase money, or the money to be received for equality of exchange on behalf of such corporation sole, shall (except as hereinafter mentioned) be paid into the Bank of England, in the name and with the privity of the Accountant-General of the Court of Chancery, to be placed to his account to the credit of the said corporation sole, and thenceforth all proceedings authorised by the 2nd section of the said hereinbefore first-mentioned act shall be applicable to such sum of money paid to the account of the Accountant-General.

2. Provided nevertheless, that if the said corporation sole shall be the incumbent of any benefice, the consent of the patron of the said benefice shall be necessary to perfect and complete such sale or exchange as aforesaid; and if the said land or building so to be sold or exchanged as aforesaid, or any part thereof, shall have been purchased by the governors of the bounty of Queen Anne for the augmentation of the maintenance of the poor clergy, or have been otherwise appropriated or annexed, by or with the consent, concurrence, or direction of the said governors, to the said benefice for the augmentation thereof, the consent of the said governors shall be necessary to perfect and complete such sale or exchange as aforesaid; and in either of such cases the said purchase money, or the money to be received for equality of exchange as aforesaid, shall be paid to the said governors, and the receipt of the treasurer for the time being of the said governors shall be sufficient discharge for the said monies, or for so much thereof as in such receipt shall be expressed to be received; and all the monies to arise from such purchase or exchange as aforesaid shall (subject to any stipulation or agreement which the said governors in their discretion may think proper to make for payment thereout of the costs and expenses of such sale or exchange) be appropriated by the said governors to the particular benefice to which the said land or building comprised in such sale or exchange shall have previously belonged, and shall be applicable and disposable by them, for the benefit and augmentation of such benefice, in such and the same manner, and with such and the same powers of investment, and other powers or authorities in all respects, according to the rules and regulations of the said governors for the time being, as if the said monies, or the stocks or funds which might be purchased therewith, were then originally appropriated by the said governors to such benefice out of the general funds and profits of the said governors or otherwise for the benefit and augmentation thereof.

3. Until the said purchase money, or the money so to be paid for equality of exchange as aforesaid, shall have been reinvested in the purchase of land, tithes, or other hereditaments for the benefit of the said corporation sole, the interest, dividends, or annual income from time to time accruing thereon shall be applied in like manner as the rents and profits of the land or building so purchased or exchanged would have been applicable if the same land or building had not been purchased or ex-

changed; and the said Lord Chancellor may make such order or orders from time to time as may be requisite for the purpose of such application.

4. The consent of the said ordinary, patron, and governors hereby required shall be testified by the said ordinary, patron, and governors respectively executing the deed or other assurance by which the land or building sold or exchanged shall be conveyed or assured, except that in the case of any land or building of copyhold or customary tenure which shall be conveyed or assured by surrender, such consent shall be testified by any writing under the corporate seal, or the hand and seal, as the case may be, of each of the consenting parties, which writing, if produced to the lord or steward of the manor of which the said land or building shall be holden, shall be a sufficient authority to such lord or steward for accepting from the person so appointed or ordered to convey as aforesaid a surrender of the same land and building, and such writing shall be entered, with the surrender, upon the court-rolls of the said manor.

5. In any case where, upon the sale of any such land or building as aforesaid belonging to any benefice, the patronage of the said benefice shall be in the Crown, or the advowson and right of patronage of such benefice shall be part of the possessions of the duchy of Cornwall, or the patron of such benefice shall be a minor, idiot, lunatic, or feme covert, the consent required by this act on the part of the patron of such benefice shall be testified by the execution of such deed or assurance or other writing as aforesaid by such and the same persons as by the act of Parliament passed in the session holden in the 1 & 2 Vict. c. 23, intituled "An Act to amend the Law for providing fit Houses for the Beneficed Clergy," are in like cases directed or authorised to testify the consent of the patron to the exercise of the several powers given by the said last-mentioned act, or by certain other acts therein mentioned or referred to, and in all other cases the consent required by this act on the part of the patron of any benefice shall be given by the person or persons who would be entitled to present, nominate, or collate to such benefice in case the same were actually vacant at the time of giving such consent.

6. In the construction of this act the word "benefice" shall be taken to extend to and comprise all rectories with cure of souls, vicarages, perpetual curacies, and chapelries, the incumbents of which respectively shall in right thereof be corporations sole.

7. The provisions of the act of the 1 Vict. c. 50, shall be applicable to this act, and the several terms herein used shall be construed as in the 109th section of the act of the 4 & 5 Will. 4, c. 76, and as in the act of the 16 & 17 Vict. c. 70, respectively.

CAP. XIV.

An Act to amend the Joint-stock Companies Act, 1856.
[13th July, 1857.]

Sect. 1. *Short title of act.*
2. *Definition of principal act, and Joint-stock Companies Acts.*
3. *Penalty on partnerships exceeding a certain number.*
4. *The registrar to give certificate of incorporation.*
5. *Power of limited company to convert paid-up shares into stock.*
6. *Company to give notice of conversion of capital into stock.*
7. *Register of holders of stock.*
8. *Remedy for improper entry or omission of entry in the register of stock.*
9. *Power of court under the 25th section of principal act to decide on disputed questions.*
10. *Penalty on not forwarding copies of memorandum, &c. to shareholders.*
11. *Power to arrest shareholder about to abscond, or to remove or conceal any of his property.*
12. *Arrested shareholder may apply to court for his discharge.*
13. *Calls under third part of principal act to be specialty debt.*
14. *Proviso as to appointment of liquidators by courts other than Court of Bankruptcy.*
15. *Provision as to appointment of liquidators by Court of Bankruptcy.*
16. *Extension of power to compromise debts.*
17. *Power for liquidators to accept shares as a consideration for sale of property of company.*
18. *Power of liquidators to call general meeting.*
19. *Power of court to adopt proceedings of voluntary winding up.*
20. *Penalty on liquidators not reporting dissolution of company to registrar.*
21. *Remedy for liquidators having in their hands undistributed assets of the company.*
22. *Proviso as to alterations in Table B.*
23. *Repeal of sect.* 107 *of the principal act.*
24. *Provision as to costs in actions brought by certain limited companies.*
25. *Provisions as to companies completely registered under the* 7 *&* 8 *Vict. c.* 110.
26. *Repeal of sect.* 110 *of principal act.*
27. *Time within which completely registered companies are required to register.*
28. *Penalty on company not registering.*
29. *Power for companies to register at their discretion.*
30. *Power for existing company to register amount of stock instead of shares.*
31. *Provision as to list of shareholders required by sect.* 111 *of principal act.*
32. *Exemption of certain companies from payment of fees.*
33. *Grant of certificate of registration, and effect thereof.*

Whereas it is expedient that further provision should be made for the incorporation and regulation of joint-stock companies, and that for that purpose the Joint-stock Companies Act, 1856, should be amended; be it therefore enacted &c. as follows:—

Preliminary.

Sect. 1. This act may be cited for all purposes as "The Joint-stock Companies Act, 1857."

2. "The Joint-stock Companies Act, 1856," hereinafter called "the principal act," and this act, shall, so far as is consistent with the context and objects of such acts, be construed as one act; and this act and the principal act may be cited together for all purposes as "The Joint-stock Companies Acts, 1856, 1857."

Registry, (Part 1 *of Principal Act).*

3. The 4th section of the principal act shall be repealed, and in lieu thereof be it enacted as follows:—

If after the passing of this act more than twenty persons carry on, in partnership, any trade or business, having for its object the procurement of gain to the partnership, then, unless such persons are included within one or more of the classes following, (that is say),

(1). Are registered as a company under the principal act;

(2). Are a company incorporated or otherwise legally constituted by or in pursuance of some act of Parliament, royal charter, or letters-patent; or,

(3). Are engaged in working mines within, and subject to the jurisdiction of, the Stannaries;

Each one of the persons so carrying on business in partnership together contrary to this provision shall be severally liable for the payment of the whole debts of the partnership, and may be sued for the same without the joinder in the action or suit of any other member of the partnership.

4. The registrar shall, on payment of 5*s*., issue a certificate of incorporation of any company to any person applying for the same, and such certificate shall be admissible in evidence in like manner as the certificate of incorporation directed to be given by the principal act.

Register of Shareholders, (Part 1 *of Principal Act).*

5. Any limited company may by special resolution convert into stock any shares which have been fully paid up; and upon such conversion being made all the provisions of the principal act, or of this act, which require or imply that the capital of the company is divided into shares of any fixed amount, and distinguished by numbers, and all the provisions of the principal act that require the company to keep a register of shareholders, or to make an annual list of shareholders in the register, shall cease as to so much of the capital as has been so converted into stock.

6. Any company that has converted any portion of its capital into stock shall give notice of such conversion, specifying the shares so converted, to the registrar of joint-stock companies, within fifteen days from the date of the last of the meetings at which the resolution was passed by which such conversion was authorised, and the registrar shall forthwith record the fact of such conversion. If such notice is not given within the period aforesaid, the company shall incur a penalty not exceeding 5*l.* for every day during which such neglect to give notice continues.

7. Any company that has converted any portion of its capital into stock shall keep at the registered office of the company a register of the names and addresses of the persons for the time being entitled to such stock, and such register shall be open to inspection in the manner and subject to the penalties in and subject to which the register of shareholders is by the principal act directed to be kept open.

8. If the name of any person is without sufficient cause entered or omitted to be entered in the register of stock of any company, such person, or any holder of stock in the company, may apply to have the register rectified in manner directed by the 25th section of the principal act.

9. The court may, in any proceeding under the 25th section of the principal act, decide on any question relating to the title of any person who is a party to such proceeding to have his name entered in or erased from the register, whether such question arises between two or more holders or alleged holders of shares or stock, or between any holders or alleged holders of shares or stock and the company, and generally the court may in any such proceeding decide any question that it may be necessary or expedient to decide for the rectification of the register.

10. If any company makes default in forwarding copies of the memorandum of association and articles of association to shareholders, in pursuance of sect. 27 of the principal act, the company so making default shall for each offence incur a penalty not exceeding 1*l.*

Winding up by Court, (Part 3 of Principal Act).

11. Where an order has been made for winding up a company under the third part of the principal act, if, upon the application of the official liquidator, it appears to the court having jurisdiction in the matter of such winding up that there is probable cause for believing that any contributory to such company is about to quit the United Kingdom, or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the company, the court may, by warrant directed to such person or persons as it thinks fit, cause such contributory to be arrested, and his books, papers, monies, securities for monies, goods and chattels, to be seized, and him and them to be safely kept until such time as the court may order.

12. Any contributory who has been arrested, or whose goods or chattels have been seized under any such warrant as aforesaid, may, at any time after such arrest or seizure, apply to the court that issued the warrant to discharge him from custody, or to direct the delivery to him of any books, papers, monies, securities for money, goods or chattels, that may have been seized; and the court shall take such application into consideration, and shall make such order thereon as it thinks just.

13. All calls that are authorised by the third part of the principal act to be made on a contributory, in the event of the company to which he belongs being wound up by the court or voluntarily, shall be deemed in England and Ireland to be specialty debts due from such contributory to the company.

Official Liquidators, (Part 3 of Principal Act).

14. In cases within the jurisdiction of the Court of Chancery in England or Ireland, or of the Court of Session in Scotland, or of the Court of the Stannaries, the court having jurisdiction shall, in the appointment of an official liquidator or official liquidators, consult the interests of both the creditors and contributories, and hear such creditors or contributories as it thinks fit to hear with respect to such appointment. It may, unless both the creditors and contributories concur in the appointment of a single liquidator, appoint one or more liquidator or liquidators to act on behalf of each of such parties. It may declare, that in case of difference, any act may be done by a majority of liquidators, or it may require the liquidators, in all cases of difference, to apply to the court. It may do anything hereby authorised to be done, either upon the first appointment of a liquidator, or at any subsequent stage of the winding up; but notwithstanding anything herein contained, it shall not be obligatory on the court to appoint more than one liquidator, if, in its discretion, it thinks that such appointment will be most conducive to justice.

15. In cases within the jurisdiction of any Court of Bankruptcy the official assignee shall, where a liquidator is appointed by the creditors, be considered as appointed as the representative of the contributories, and, where a liquidator is appointed by the contributories, be considered as appointed as the representative of the creditors.

16. The power of compromising debts and claims given by the principal act to the liquidators therein mentioned shall be deemed to extend to the compromise of any calls or debts due from any contributory or alleged contributory to the company on receipt of a smaller sum in lieu of a greater, or upon such terms as may be agreed upon, with power to the liquidators to take any security for any calls or debts so due, and to give effectual discharges on completion of such compromise; subject to this proviso, that no such compromise shall be made by any official liquidator except with the sanction of the court, and after giving such notice to creditors, and subject to such conditions as to obtaining the consent of creditors, or any portion of them, as the court may direct, and that no such compromise shall be made by the liquidators appointed on the voluntary winding up of a company, except with the sanction of a special resolution.

17. Where a company is being wound up voluntarily, and the whole or a portion of its property is about to be sold to another company, registered under this act, the liquidators of the first-mentioned company may, with the sanction of a special resolution of the company by whom they were appointed, receive, in compensation or part compensation for such sale, shares in such other company, for the purpose of distribution amongst the shareholders of the company being wound up, or may enter into any other arrangement whereby the shareholders of the company being wound up may, in lieu of receiving cash or shares, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing company; and any sale made or arrangement entered into by the liquidators in pursuance of this section shall be binding on the shareholders of the company being wound up; subject to this proviso, that if any shareholder in the company being wound up, who has not voted in favour of the special resolution passed by his company at either of the meetings held for passing the same, expresses his dissent from any such special resolution, in writing addressed to the liquidators or one of them, and left at the registered office of the company, not later than seven days after the date of the last of the meetings at which such special resolution was passed, such dissentient shareholder may require the liquidators to do such one of the following things as they may prefer; that is to say, either to abstain from carrying such resolution into effect, or to purchase the shares held by the dissentient shareholders or shareholder, at such price as may be agreed upon or settled by arbitration, such purchase money to be paid before the company is dissolved, and to be raised by the liquidators in such manner as may be determined by special resolution.

18. In the case of a company being wound up voluntarily, the liquidators may from time to time during the continuance of such winding up, summon general meetings of the company for the purpose of obtaining the sanction of the company by a special resolution, or for such other purposes as they think fit.

19. Where a company is in course of being wound up voluntarily, and proceedings are taken for the purpose of having the same wound up by the court, the court may, if it thinks fit, notwithstanding that it makes an order directing the company to be wound up by the court, provide in such order, or in any other order, for the adoption of all or any of the proceedings taken in the course of the voluntary winding up: it may also, instead of making an order that the company should be altogether wound up by the court, direct that the voluntary winding up should continue, but subject to such supervision of the court, and with such liberty for creditors, contributories, or others to apply to the court, and generally upon such terms and subject to such conditions as the court thinks just.

20. If the liquidators make default in reporting to the registrar, in the case of a company being wound up by the court, the decree declaring the company to be dissolved, and in the

case of a company being wound up voluntarily, the resolution declaring the company to have been fairly wound up, they shall be liable to a penalty not exceeding 5*l.* for every day during which they are so in default, and moreover shall not, while so in default, be entitled to recover any compensation for their services as liquidators.

21. If at the expiration of twelve months from the date of the dissolution of any company that has been wound up there remain in the hands of the liquidators any money, shares, or other property which they have been unable, by reason of the absence or death of any persons entitled thereto, or for any other reason, to distribute amongst the parties so entitled, the liquidators shall be deemed to be trustees of such monies, shares, or other property, within the meaning of an act passed in the 11 Vict. c. 96, and intituled "An Act for better securing Trust Funds, and for the Relief of Trustees," and of any act amending the same, and may pay or transfer such monies, shares, or other property into the Court of Chancery accordingly.

Alteration of Forms, (Part 3 of Principal Act).

22. No alteration made by the Board of Trade in the table marked B. contained in the schedule to the principal act shall affect any company registered prior to the date of such alteration, or repeal as respects such company any portion of such table, unless such alteration is adopted by special resolution.

Repeal, (Part 5 of Principal Act).

23. The 107th section of the principal act shall be repealed, and in lieu thereof be it enacted, that—

(1.) An act passed in the 8 Vict. c. 110, and intituled "An Act for the Registration, Incorporation, and Regulation of Joint-stock Companies;" and

(2.) An act passed in the 11 Vict. c. 78, intituled "An Act to amend an Act for the Registration, Incorporation, and Regulation of Joint-stock Companies;" and

(3.) The Limited Liability Act, 1855,

shall be deemed to have been and still to remain unrepealed as to any company completely registered which has not obtained registration under the principal act, until such time as such company obtains registration under the Joint-stock Companies Acts, 1856, 1857, but from and after such time, and not before, shall be repealed as to such last-mentioned company; and, subject as aforesaid, all the acts mentioned in this section shall be repealed.

Costs by Limited Companies.

24. Where a limited company is plaintiff or pursuer in any action, suit, or other legal proceeding, any judge having jurisdiction in the matter may, if it be proved to his satisfaction that there is reason to believe that if the defendant be successful in his defence the assets of the company will be insufficient to pay his costs, require sufficient security to be given for such costs, and may stay all proceedings until such security be given.

Temporary Provisions, (Part 5 of Principal Act).

25. Where any company completely registered under the said act passed in the 8 Vict. c. 110, has obtained registration under the principal act after the 3rd November, 1856, but before the passing of this act, such registration shall be as effectual to all intents as if it had taken place on or before the said 3rd November, 1856.

26. The 110th section of the principal act shall be repealed.

27. Every company completely registered under the said act of the 8 Vict. c. 110, including any company that has obtained a certificate of complete registration under the Limited Liability Act, 1855, but excluding any company formed for the purpose of insurance, shall, if it has not already registered under the principal act, register under the Joint-stock Companies Acts, 1856, 1857, on or before the 2nd November, 1857, or incur such penalty as is hereinafter mentioned.

28. If any company hereby required to register under the Joint-stock Companies Acts makes default in registering on or before the said 2nd November, 1857, then from and after such day until the day on which such company is registered under the Joint-stock Companies Acts, 1856, 1857, the following consequences shall ensue, (that is to say)—

(1). The company shall be incapable of suing either at law or in equity, but shall not be incapable of being made a defendant to a suit either at law or in equity:

(2). No dividend shall be payable:

(3). Each director or manager of the company shall for each day during which the company is in default incur a penalty of 5*l.*, and such penalty may be recovered by any person, and be applied by him to his own use.

Nevertheless such default shall not render the company so being in default illegal, nor subject it to any penalty or disability other than as specified in this section.

29. Every company consisting of seven or more shareholders, having a capital of fixed amount, divided into shares, also of fixed amount, duly constituted by law prior to the passing of this act, and not being a company hereby required to be registered, may at any time hereafter, upon compliance with the provisions of the Joint-stock Companies Acts, 1856, 1857, register itself as a company under such acts, with or without limited liability; subject to this proviso, that no company shall be registered as a limited company unless either the liability of the shareholders is already limited to the amount of the unpaid calls on their shares, or an assent to its being so registered has been given by three-fourths in number and value of such of its shareholders as may have been present, personally, or by proxy, in cases where proxies are allowed by the regulations of the company, at some general meeting summoned for that purpose.

30. Where an existing company, authorised to register under the Joint-stock Companies Acts, 1856, 1857, has had the whole or any portion of its capital converted into stock, such company shall, as to the capital so converted, instead of delivering to the registrar the statement of capital and shares required by the principal act, deliver to the registrar a statement of the amount of stock belonging to the company, and the names of the persons who were holders of such stock on some day to be named in the statement, not more than six days before the day of registration.

31. The list of shareholders required by sect. 111 of the principal act to be delivered to the registrar need not be made up to the day of the registration of the company, but may be made up to any day not more than six days before such day of registration.

32. No fees shall be charged in respect of the registration under the Joint-stock Companies Acts, 1856, 1857, of any company existing at the date of this act, and required or authorised to be registered by the said Joint-stock Companies Acts, or either of them, in cases where such company is not registered as a limited company, or where, previously to its being registered as a limited company, the liability of the shareholders was limited by some other act of Parliament or by letters-patent.

33. The 113th section of the principal act shall be repealed, and in lieu thereof be it enacted as follows:—Upon compliance with the requisitions of the Joint-stock Companies Acts, 1856, 1857, respecting registration, the registrar of joint-stock companies shall certify under his hand that the company applying for registration is incorporated as a company under the Joint-stock Companies Acts, 1856, 1857, and in the case of a limited company that it is limited, and thereupon such company shall be incorporated accordingly; and all provisions contained in any act of Parliament, deed of settlement, letters-patent, or other instrument constituting or regulating any company that has been registered under the provisions of the said 113th section, or any company that may hereafter be registered under this section, shall be deemed to be regulations of the company, in the same manner as if they were contained in a registered memorandum of association and articles of association; and all the provisions of the Joint-stock Companies Acts, 1856, 1857, shall apply to such company, in the same manner in all respects as if it had been originally incorporated under such acts, subject to the reservation in favour of creditors contained in the principal act, and to the following provisoes:—

(1). That Table B. shall not, unless adopted by special resolution, apply to any such company as is mentioned in this section:

(2). That no company shall have power to alter any provision contained in any act of Parliament relating to the company:

(3). That no company shall have power, without the sanction of the Board of Trade, to alter any provision contained in any letters-patent relating to the company:

(4). That nothing herein contained shall authorise any company to alter any such provisions contained in any deed of settlement, letters-patent, or other instrument constituting or regulating the company, as would, if such company had originally been incorporated under the Joint-stock Companies Acts, 1856, 1857, have been contained in the memorandum of association, and are not authorised to be altered by such last-mentioned acts:

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any existing company by virtue of any such act of Parliament, deed of settlement, letters-patent, or other instrument constituting or regulating the company: moreover the repeal of the said 113th section of the principal act shall not affect any right acquired under the section so repealed.

CAP. XV.

An Act to amend the Act of the 6 & 7 Will. 4, c. 116, for consolidating and amending the Laws relating to the Presentment of Public Money by Grand Juries in Ireland. [27th July, 1857.]

Sect. 1. When no contract entered into for works approved of at road sessions, grand jury may present for the same.
2. Where work is given in charge to county surveyor, treasurer to make payments.
3. This and recited act construed together.

CAP. XVI.

An Act to discontinue the taking of Toll on the Turnpike Roads now existing in Ireland, and to provide for the Maintenance of such Roads as Public Roads, and for the Discharge of the Debts due thereon; and for other Purposes relating thereto. [27th July, 1857.]

Sect. 1. Short title.
2. Interpretation of terms.
3. Commissioner appointed for executing the act.
4. Authentication of documents.
5. Proceeding &c. of commissioner to be binding, and not removeable by certiorari, &c.
6. Notices may be sent by post.
7. Remuneration of commissioner.
8. Declaration to be made by commissioner before acting.
9. Commissioner to proceed to sit for execution of act, and to give notice of sittings. Sittings may be adjourned.
10. Commissioner to inquire into debts, conditions, &c. of trusts. When securities lost, commissioner may include rentholders among creditors.
11. Power to summon witnesses, and to require production of documents.
12. Penalty on giving false evidence, refusing to give evidence, destroying documents, &c.
13. Record of proceedings.
14. Commissioner to ascertain mortgages charged on each trust.
15. Commissioner to ascertain rents payable by each trust.
16. Debts so ascertained to be charged on counties and baronies.
17. Award of commissioner.
18. Parties dissatisfied with award may enter a traverse.
19. Awards may be to representatives of persons under disabilities.
20. The cost of carrying act into execution, how to be paid.
21. Commissioner to make a general award.
22. Award to be inrolled &c.
23. Commissioner may make supplemental awards.
24. Grand juries to present sums and annuities payable pursuant to this act.
25. Commissioner to give mortgagees certificate of amount due.
26. Register to be kept.
27. Register of transfer.
28. Payments to persons named in certificates, &c to be a discharge.
29. Treasurer of county may deposit sums awarded in the Court of Chancery.
30. Claims to be extinguished.
31. Grand juries may present for mortgages.
32. Power to grand juries to borrow money to pay off or redeem mortgages. Grand jury may appoint committee to treat &c. for loan.
33. Power to committee to negotiate loan.
34. Loan to be paid to treasurer.
35. Treasurer to insert in warrants instalments of loan.
36. Grand juries may redeem mortgages or annuities.
37. Redeemed mortgages or annuities to be cancelled.
38. Acts in Schedule (A.) repealed on and after the 5th April, 1858, and roads declared to be public roads.
39. Officers to account and deliver up documents, &c.
40. Penalties, &c., how to be recovered.
41. Property of trusts to vest in commissioner.
42. Power to justices at petty sessions to give possession of toll-house, &c. to commissioner.
43. Trust property to be sold.
44. Application of produce of sales and balances in hands of trustees.

CAP. XVII.

An Act to amend the Act of the 11 & 12 Vict. c. 72, so far as relates to the Distribution of the Constabulary Force in Ireland. [27th July, 1857.]

Sect. 1. Schedule substituted for schedule to the 11 & 12 Vict. c. 72.
2. As to distribution of officers of the constabulary force.
3. Power to the Lord Lieutenant to vary number of constables, &c. for each county, &c. every five years.
4. Interpretation of terms.

CAP. XVIII.

An Act to regulate Procedure in the Bill Chamber in Scotland. [10th August, 1857.]

Sect. 1. Office of one of the two clerks of the bills abolished, and duties in future to be performed by one clerk.
2. Assistant clerk and ordinary clerks to be appointed.
3. Clerks to be paid wholly by salaries.
4. Salaries, &c. to be voted by Parliament. Fees to be accounted for and paid over to the Treasury.
5. Clerk of the bills to keep separate accounts of consigned monies.
6. Monies consigned with former clerks of the bills to be paid over to the Treasury.
7. Court of Session may make acts of sederunt.
8. Certain acts, &c. repealed.
9. Commencement of act.

CAP. XIX.

An Act to remove Doubts as to the Law of Bankruptcy and Real Securities in Scotland. [10th August, 1857.]

Sect. 1. *Short title.*
2. *Court of Session or sheriffs may award sequestration of deceased debtor.*
3. *Notice of remit by the sheriffs to be given in the Gazette.*
4. *Expense of competition for office of trustee.*
5. *Oath, &c. to be produced to entitle creditor to a second dividend.*
6. *Procedure requisite in reference to subsequent dividends.*
7. *Abbreviate of discharge of bankrupt to be issued and recorded, as in Schedule (A.)*
8. *Nothing in sect. 7 of the* 19 *&* 20 *Vict. c.* 91, *to exclude the application of provisions of the* 10 *&* 11 *Vict. c.* 50, *and the* 17 *&* 18 *Vict. c.* 62, *to heritable securities granted by the same.*
9. *Application of sect.* 10 *of the* 19 *&* 20 *Vict. c.* 79.
10. *Recited acts, except as altered, to remain in force.*

Whereas doubts have arisen regarding the construction of certain clauses contained in an act passed in the 19 & 20 Vict. [c. 79], intituled "An Act to consolidate and amend the Laws relating to Bankruptcy in Scotland," and in another act of the same year of her Majesty, [19 & 20 Vict. c. 91], intituled "An Act to amend and re-enact certain Provisions of an Act of the 54 Geo. 3, relating to Judicial Procedure and Securities for Debt in Scotland," and it is expedient that such doubts should be removed: be it therefore enacted &c. as follows:—

Sect. 1. This act may be cited as "The Bankruptcy and Real Securities (Scotland) Act, 1857."

2. Sequestration in the case of a deceased debtor may be awarded by the Court of Session, or by the sheriff of the county in which the debtor for the year preceding his death had resided or carried on business.

3. In the event of sequestration having been awarded by the sheriffs of two or more counties, and of the later sequestration or sequestrations being remitted by the sheriff or sheriffs awarding them to the sequestration first in date, a notice of such remit shall be inserted in the Gazette four days after a copy of the deliverance of such remit could be received in course of post in Edinburgh.

4. No part of the expense of any competition for the office of trustee shall be paid out of the estate, but all such expense shall be paid by the unsuccessful party to the successful party.

5. Any creditor, in order to be entitled to participate in a second or any subsequent dividend, shall produce his oath and grounds of debt, as directed by the first-recited act, in reference to the first dividend, at least two months before the period fixed for payment of such second or subsequent dividend.

6. The procedure by the first-recited act prescribed in reference to a second dividend shall be applicable in reference to subsequent dividends, so that a dividend may be made on the first lawful day after the expiration of every three months from the day of the payment of the immediately preceding dividend, until the whole funds of the bankrupt shall be divided.

7. An abbreviate of the deliverance of discharge of the bankrupt, whether following on a composition or not, shall be issued by the clerk of the bills or the sheriff clerk in the form of the Schedule (A.) hereunto annexed, and the abbreviate shall be recorded in the register of inhibitions and the register of abbreviates of adjudications at Edinburgh, and the keepers of such registers shall, if required, grant certificates of such registration in the form annexed to the said abbreviate.

8. Nothing contained in the 7th section of the last-recited act shall be held to exclude the application of the provisions of an act passed in the 10 & 11 Vict. [c. 50], intituled "An Act to facilitate the Constitution and Transmission of Heritable Securities for Debt in Scotland, and to render the same more effectual for the Recovery of Debts," or of an act passed in the 17 & 18 Vict. [c. 62], intituled "An Act to extend the Benefits of two Acts of her Majesty relating to the Constitution, Transmission, and Extinction of Heritable Securities in Scotland," to the heritable securities authorised to be granted by the said 7th section, but the said provisions shall be held to apply thereto.

9. The 10th section of the first hereinbefore recited act shall be taken to apply to actions and exceptions as well in the ordinary court of the sheriff as in the Court of Session.

10. The recited acts, excepting in so far as altered by this act, shall be and remain in full force and effect, and shall be construed with this act.

SCHEDULE (A.)

1.—*Form of Abbreviate of the Deliverance of Discharge of Bankrupt.*

Abbreviate of deliverance discharging [*insert name.*]

A. B. [*insert the bankrupt's name and designation*] has been discharged of all debts and obligations contracted by him, or for which he was liable at the date of the sequestration of his estates; [*if upon composition, add as follows*—" the said sequestration declared at an end, and the said (*name*) reinvested in his estates on composition of (*insert the amount*)"]; conform to deliverance by [*Lord Ordinary or sheriff*]. Dated the —— day of ——, one thousand eight hundred and ——, and in terms of the Bankruptcy (Scotland) Act, 1856, and the Bankruptcy and Real Securities (Scotland) Act, 1857.

C. D., Bill Chamber Clerk,
or,
Sheriff Clerk of ——.

[*Place and date.*]

2.—*Form of Certificates of Registration of Abbreviate to be annexed to the Abbreviate.*

This abbreviate was presented by ——, and recorded on the —— day of —— in the register of abbreviates of adjudication at Edinburgh.

E. F., Keeper.

This abbreviate was presented by ——, and recorded on the —— day of —— in the register of inhibitions at Edinburgh.

G. H., Keeper.

CAP. XX.

An Act to authorise the Inclosure of certain Lands, in pursuance of a Special Report of the Inclosure Commissioners for England and Wales. [10th August, 1857.]

CAP. XXI.

An Act to suspend the making of Lists and the Ballots for the Militia of the United Kingdom. [10th August, 1857.]

Sect. 1. *Meetings relating to the militia of the United Kingdom, and ballots for such militia, suspended.*
2. *Proceedings may be had during such suspension by Order in Council.*
3. *Not to extend to prevent the holding of certain meetings relating to the militia.*

Whereas it is expedient to suspend for a further period the ballots for the militia of the United Kingdom: be it therefore enacted &c. as follows:—

Sect. 1. All general and subdivision meetings relating to the militia of the United Kingdom, and all proceedings relating to procuring any returns, or preparing or making out lists of such militia, or any part thereof, for the purpose of a ballot, or relating to balloting for any militiamen, or supplying any vacancies in such militia by ballot, as are or may be directed or authorised by or under any act of Parliament now in force, shall cease and remain suspended until the 1st day of October, 1858.

2. Provided always, that it shall be lawful for her Majesty, by any Order in Council, to direct that any proceedings shall be had at any time before the expiration of such period as aforesaid, either for the giving of notices and making returns and preparing lists, and also for the proceeding to ballot and inrol men for the filling up vacancies in the militia, as her Majesty shall deem expedient; and upon the issuing of any such order all such proceedings shall be had for carrying into execution all the provisions of the acts in force in the United Kingdom relating to the giving notices for and returns for lists, and for the balloting and inrolling of men to supply any vacancies in the militia, and holding general and subdivision meetings for such purpose, at such times respectively as shall be expressed in any such Order in Council, or by any directions given in pursuance thereof to lord lieutenants, or deputy lieutenants acting for lord lieutenants, of the several counties, shires, cities, and places in the United Kingdom; and all the provisions of the several acts in force in the United Kingdom relating to the militia shall, upon any such order, and direction given in pursuance thereof, become and be in full force, and be carried into execution at the period specified in such order or direction as aforesaid, with all such penalties and forfeitures for any neglect thereof, as fully as if such periods had been fixed in the acts relating to such militia.

3. Provided also, that nothing herein contained shall extend to prevent the holding before the expiration of such period as aforesaid of such general or other meetings relating to the militia of the United Kingdom as may be called in Great Britain under the authority of one of her Majesty's Principal Secretaries of State, or in Ireland under the authority of the Lord Lieutenant or other chief governor or governors of Ireland, or of any meeting which may be called for the purpose of altering, enlarging, or providing any place for the reception of the arms, accoutrements, clothing, or other stores belonging to the militia.

CAP. XXII.

An Act to apply the Public Health Act, 1848, to the Parish of Aldershot, and to constitute a Local Board of Health therein. [10th August, 1857.]

CAP. XXIII.

An Act to authorise the Commissioners of Public Works in Ireland to sell Mill Sites and Water Power, notwithstanding Final Award, in any Drainage or Navigation District. [10th August, 1857.]

Sect. 1. All mill sites to continue vested in the commissioners, notwithstanding final award.

2. Power to sell such mill sites within five years after final award.

3. Application of the proceeds of sale of sites, water powers, &c.

4. The 5 & 6 Vict. c. 89, and this act to be construed as one.

CAP. XXIV.

An Act to continue certain Turnpike Acts in Great Britain. [10th August, 1857.]

CAP. XXV.

An Act to continue the Powers of the Commissioners under an Act of the Seventeenth and Eighteenth Years of Her Majesty concerning the University of Oxford and the College of St. Mary, Winchester, and further to amend the said Act. [10th August, 1857.]

CAP. XXVI.

An Act to provide for the Registration of Long Leases in Scotland, and Assignations thereof. [10th August, 1857.]

Sect. 1. *Long leases, and assignations thereof, registerable in register of sasines.*
2. *Recorded leases effectual against singular successors in the lands let.*
3. *Assignations of recorded leases.*
4. *Assignations in security.*
5. *Where party presenting for registration not original lessee or assignee.*
6. *Translation of assignations in security. Creditor's entry to possession in default of payment.*
7. *Heir may complete title by writ of acknowledgment.*
8. *Heir or disponee may complete title by recording notarial instrument.*
9. *Where assignee has died without recording assignation, mode of making up title.*
10. *Adjudgers to complete right by recording abbreviate.*
11. *Trustees on sequestrated estate may be entered on register.*
12. *Preferences regulated by date of recording transfer.*
13. *Renunciations and discharges to be recorded.*
14. *Entry of decree of reduction.*
15. *Mode of registering. Extracts to make faith as writs registered.*
16. *Registration equivalent to possession.*
17. *Leases, with obligation to renew, registerable.*
18. *No lease executed after date of act to be registerable where name of lands and boundaries not given.*
19. *Extracts registerable where leases recorded in Court of Session or Sheriff Court books prior to act.*
20. *Clauses in schedules to be held to import and to have effect as declared by the* 10 *&* 11 *Vict. c.* 50.
21. *Short title.*

Be it enacted &c. as follows:—

Sect. 1. From and after the passing of this act it shall be lawful to record in the general register of sasines in Scotland, or in the particular register of sasines for the district in which the lands and heritages leased are situated, probative leases, whether executed before or after the passing of this act, for a period of thirty-one years, and for any greater number of years that shall be stipulated, of lands and heritages in Scotland other than lands and heritages held by burgage tenure, and to record in the several burgh registers of sasines probative leases for the period aforesaid of lands and heritages within the burgh for which such register is kept, and held by burgage tenure, and to record respectively, in the register in which any such lease as aforesaid shall have been registered, the assignations, and assignations in security of such lease, and translations thereof, all hereinafter mentioned.

2. Leases registerable under this act, and valid and binding as in a question with the grantors thereof, which shall have been duly recorded, as herein provided, at or subsequent to the date of entry therein stipulated, shall, by virtue of such registration, be effectual against any singular successor in the lands and heritages thereby let, whose infeftment is posterior in date to the date of such registration: provided always, that, except for the purposes of this act, it shall not be necessary to record any such lease as aforesaid, but that all such leases which would, under the existing law prior to the passing of this act, have been valid and effectual against any such singular successor as aforesaid, shall, though not recorded, be valid and effectual against such singular successor, as well as against the grantors of the said leases.

3. When any such lease as aforesaid shall have been recorded as herein provided it shall be lawful for the party in right of such lease, and whose right is recorded in terms of this act, but in accordance always with the conditions and stipulations of such lease, and not otherwise, to assign the same, in whole or in part, by assignation, in the form as nearly as may be of the Schedule (A.) to this act annexed; and the recording of such assignation shall fully and effectually vest the assignee with the right of the grantor thereof in and to such lease to the extent assigned: provided always, that such assignation shall be without prejudice to the right of hypothec, or other rights of the landlord.

4. It shall be lawful for the party in right of any such lease recorded as aforesaid, and whose right thereto is recorded in terms of this act, but in accordance always with the conditions and stipulations of such lease, and not otherwise, to assign the same, in whole or in part, in security for the payment of borrowed money, or of annuities, or of provisions to wives or children, or in security of cash credits or other legal debt or obligation, in the form as near as may be of the Schedule (B.) to this act annexed; and the recording of such assignation in security shall complete the right thereunder; and such assignation in security so recorded shall constitute a real security over such lease to the extent assigned.

5. Where the perty in right of any such lease or assignation in security as aforesaid is not the original lessee in such lease, or the original assignee in such assignation in security, he shall, before presenting such lease or assignation in security for registration, expede an instrument, under the hand of a notary public, in the form as nearly as may be of the Schedule (C.) to this act annexed; and the keeper of the register, on such notarial instrument being produced to him, but not otherwise, shall thereupon record such lease or assignation in security, together with the said instrument.

6. All such assignations in security as aforesaid shall, when recorded, be transferable, in whole or in part, by translation, in the form as nearly as may be of the Schedule (D.) to this act annexed; and the recording of such translation shall fully and effectually vest the party in whose favour it was granted with the right of the grantor thereof in such assignation in security to the extent assigned; and the creditor or party in right of such assignation in security, without prejudice to the exercise of any power of sale therein contained, shall be entitled, in default of payment of the capital sum for which such assignation in security has been granted, or of a term's interest thereof, or of a term's annuity, for six months after such capital sum or term's interest or annuity shall have fallen due, to apply to the sheriff for a warrant to enter on possession of the lands and heritages leased; and the sheriff, after intimation to the lessee for the time being, and to the landlord, shall, if he see cause, grant such warrant, which shall be a sufficient title for such creditor or party to enter into possession of such lands and heritages, and to uplift the rents from any subtenants therein, and to sublet the same, as freely and to the like effect as the lessee might have done: provided always, that no such creditor or party, unless and until he enter into possession as aforesaid, shall be personally liable to the landlord in any of the obligations and prestations of the lease.

7. It shall be competent for the heir of any party who shall have died vested in right of any such lease or assignation in security, recorded as aforesaid, to make up his title thereto by a writ of acknowledgment from the proprietor infeft in the lands and heritages leased by such lease, or from the party appearing on the register as in absolute right of such lease of or over which such assignation in security has been granted respectively, in the form as nearly as may be of the Schedule (E.) to this act annexed; and the recording of such writ in the register in which such lease or assignation in security is registered shall complete the title of such heir to such lease or assignation in security aforesaid: provided always, that no defect in the title of the proprietor or party grantor of such writ shall affect the right or title of such heir.

8. It shall be competent to the heir, who shall have been served by general or special service, or to the general disponee of any party who shall have died fully vested in right of any such lease or assignation in security, recorded as aforesaid, to expede a notarial instrument, in the form as nearly as may be

of the Schedule (F.) to this act annexed; and the recording of such instrument in the register in which such lease is recorded shall complete the title of such heir or disponee to such lease or assignation in security.

9. Where any assignation, assignation in security, or translation granted in pursuance of this act shall not have been registered as aforesaid in the lifetime of the grantee in such writ respectively, it shall be competent to the heir or general disponee of such grantee to make up his title by expeding an instrument, under the hand of a notary public, in the form as nearly as may be of the Schedule (F.) to this act annexed; and the keeper of the register, on such notarial instrument being presented to him, but not otherwise, shall thereupon record such assignation, assignation in security, or translation, together with the said instrument.

10. When an adjudication of any such lease or assignation in security recorded as aforesaid shall have been obtained against the party vested in the right thereof respectively, or against the heir of such party, the recording of the abbreviate of adjudication in the register in which the lease is recorded shall complete the right of the adjudger to such lease or assignation in security.

11. It shall be lawful for the trustee on the sequestrated estate of any party, in right of any such lease or assignation in security as aforesaid, to expede a notarial instrument, in the form as nearly as may be of the Schedule (F.) to this act annexed; and the recording of such instrument in the register in which such lease is recorded shall complete the right of such trustee to such lease or assignation in security.

12. All such leases executed after the passing of this act, and all assignations, assignations in security of any such lease recorded as aforesaid, and translations thereof, and all adjudications of such leases recorded as aforesaid, or assignations in security, shall in competition be preferable, according to their dates of recording.

13. On the production to the keeper of the register of a renunciation of any such lease as aforesaid recorded therein, or of a discharge of any such assignation in security as aforesaid therein recorded, by or on behalf of the party appearing on the register as in right of such lease or assignation in security, which renunciation or discharge may be in the form of the Schedules (G.) and (H.) respectively to this act annexed, and may be indorsed on such lease or assignation in security, he shall forthwith duly record the same.

14. On the production to any such keeper of an extract of a decree of reduction of any such lease, assignation, assignation in security, translation, adjudication, instrument, discharge, or renunciation recorded in the register of which he is the keeper, he shall forthwith duly record the same.

15. Leases, assignations, assignations in security, translations, adjudications, instruments, discharges, renunciations, and other writs, duly presented for registration in pursuance of this act, shall be forthwith shortly entered in the minute-book of the register in common form, and shall, with all due despatch, be fully registered in the register-book, and thereafter redelivered to the parties, with certificates of due registration thereon, which shall be probative of such registration, such certificates specifying the date of presentation, and the book and folio in which the ingrossment has been made, and being subscribed by the keeper of the register; and the date of entry in the minute-book shall be held to be the date of registration; and extracts of all such writs registered in pursuance of this act shall make faith in all cases in like manner as the writs registered, except where the writs so registered are offered to be improven.

16. The registration of all such leases, assignations, assignations in security, translations, adjudications, writs of acknowledgment, and notarial instruments as aforesaid, in manner herein provided, shall complete the right under the same respectively, to the effect of establishing a preference in virtue thereof, as effectually as if the grantee, or party in his right, had entered into the actual possession of the subjects leased under such writs respectively at the date of registration thereof.

17. Leases containing an obligation upon the grantor to renew the same from time to time at fixed periods, or upon the termination of a life or lives, or otherwise, shall be deemed leases within the meaning of this act, and registerable as such, provided such leases shall by the terms of such obligation be renewable from time to time, so as to endure for a period of thirty-one years or upwards.

18. No lease of lands and heritages other than subjects held by burgage tenure executed after the passing of this act, unless where the same shall have been executed in terms of an obligation to renew contained in a lease renewable as aforesaid, and of date prior to this act, shall be held to fall within the same, or to be registerable thereunder, unless the name of the lands of which the subjects let consist or form a part shall be set forth in such lease; and no such lease of such lands and heritages as aforesaid, except where the same consist of mines or minerals, shall be held to fall within this act, or to be registerable thereunder, unless the extent of the land let shall be set forth in such lease, and shall not exceed fifty acres.

19. Where any such lease as aforesaid registerable under this act shall, before the passing thereof, have been recorded in the books of council and session, or in the books of any sheriff or burgh court, the production to the keeper of the register of an extract of such lease shall be a sufficient warrant for him to record the same, and he shall thereupon duly record it, and the recording thereof shall be as valid and effectual as if the original lease had been presented to him.

20. The several clauses in the schedules to this act annexed shall be held to import such and the like meaning, and to have such and the like effect, as is declared by the 10 & 11 Vict. c. 50, ss. 2, 3, to belong to the corresponding clauses in the schedule to the said recited act annexed, and the procedure thereby prescribed for a sale under a bond and disposition in security shall be applicable to a sale of any such lease as aforesaid under any such assignation in security as is hereinbefore mentioned.

21. This act may be cited for all purposes as "The Registration of Leases (Scotland) Act, 1857."

SCHEDULES.

Schedule (A.)

FORM OF ASSIGNATION OF LEASE.

I, A. B., [*designation*], in consideration of the sum of —— now paid to me, [*or otherwise, as the case may be*], assign to C. D. [*designation*] a lease, dated ——, and recorded in the —— register of sasines at ——, of date ——, granted by E. F. [*designation*] in my favour, [*or if not in assignor's favour, name and design grantee*], of [*shortly mention subjects*], in the parish of ——, and county of ——, [and *(when the assignor is not the grantee in the lease)* my title to which is recorded in the said register, of date ——]; [but *(where the lease is assigned in part only)* in so far only as regards the following portion of the subjects leased, viz. *(specify particularly the portion)*], with entry as at [*term of entry*]. And [*where sub-lease*] I assign the rents from [*term*]; and I grant warrandice; and I bind myself to free and relieve the said C. D. of all rents and burthens due to the landlord or others at and prior to the term of entry in respect of the said lease; and I consent to registration for preservation and execution.

[*Testing clause in common form.*]

Schedule (B.)

FORM OF BOND AND ASSIGNATION IN SECURITY.

I, A. B., [*designation*], bind myself, my heirs and executors, without the necessity of discussing them in their order, to make payment, at the term of [*date and place of payment*], to C. D., [*designation*], or his heirs, executors, or assignees, of the sum of £——, being money borrowed by me from him, [*or*, as a provision to the said C. D., *or*, of the yearly annuity of £—— during his lifetime, *as the case may be*], with the interest of the said capital sum at the rate of £—— per cent. per annum, payable by equal portions half-yearly at Whitsunday and Martinmas, beginning the first payment at ——. And, in security of the personal obligation before written, I assign to the said C. D. and his foresaids, heritably but redeemably, as after mentioned, yet irredeemably in the event of a sale by virtue hereof, a lease of [*shortly mention subjects leased*], in the parish of ——, and county of ——, which lease was granted by E. F., [*designation*], of date ——, and recorded [*insert register, with date of recording*], and [*where cedent not the original lessee*] my title to which is registered therein [*date of recording*]; [but *(where only a portion of the subjects are assigned)* in so far only as regards the following portion of the subjects leased, viz. *(specify particularly the portion)*].

And I assign the rents; and I assign the writs; and I grant warrandice; and I reserve power of redemption; and I oblige myself and my foresaids for the expenses of assigning and discharging this security; and, on default of peyment, I grant power of sale; and I consent to registration for preservation and execution.

[*Testing clause.*]

Schedule (C.)

FORMS OF NOTARIAL INSTRUMENTS IN FAVOUR OF A PARTY NOT THE ORIGINAL GRANTEE.

No. 1.—*Case of Lease.*

Be it known, that by lease, dated ——, A. B. [*designation*] let to C. D. [*designation*] that piece of ground, [*or as the case may be, shortly describing the property leased*], in the parish of ——, and county of ——, to which lease E. F. [*designation*] has made up title by service as eldest son [*or as the case may be*] and heir of the said C. D., dated [*insert date of service*], before the [*specify the court before which the heir has been served*], and duly retoured to Chancery, [*or, as the case may be,* as general disponee *or* assignee of the said C. D., in virtue of *(here mention the writs or decreets instructing the right, with the dates thereof, and, if recorded, the register, and date of recording)**]: wherefore this instrument is taken by the said E. F. in the hands of G. H., [*designation of notary public*], in terms of the Registration of Leases (Scotland) Act, 1857.

[*Testing clause.*]

No. 2.—*Case of Assignation in Security.*

Be it known, that by bond and assignation in security of date ——, C. D. [*designation*] assigned to J. K., [*designation*], in security of a sum of £——, [*or as the case may be*], a lease granted by A. B., [*designation*], of [*shortly describe the subjects leased*], in the parish of ——, and county of ——, which lease is dated ——, and recorded [*register, and date of recording*], to which assignation in security E. F. [*designation*] has acquired right as eldest son [*or as the case may be*] and heir of the said J. K., &c. [*as in Form No.* 1.]

Schedule (D.)

FORM OF TRANSLATION OF ASSIGNATION IN SECURITY.

I, A. B., [*designation*], in consideration of the sum of £—— now paid to me, [*or as the case may be*], assign and transfer to C. D. [*designation*] a bond and assignation in security for the principal sum of £——, [*or as the case may be*], granted by E. F. [*designation*] in my favour, [*or if not in grantor's favour, name and design the party in whose favour granted*], dated ——, and recorded [*register, and date of recording*] of and over a lease granted by G. H., [*designation*], of ——, [*shortly describe subjects leased*], in the parish of ——, and county of ——, which lease is dated ——, and is recorded in the said register, of date ——, [and *(if the grantor is not the assignee in said bond)* my title to which bond and assignation in security is recorded in said register *(date of recording)*], [but *(where the translation is partial)* only to the extent of *(insert sum)*, and to the effect of giving pari passu preference to the said C. D. over the said lease with me, my heirs and assigns, as regards the remainder of the said principal sum and corresponding interest], with the interest from [*date.*]

[*Testing clause.*]

Schedule (E.)

FORMS OF WRITS OF ACKNOWLEDGMENT.

No. 1.—*Acknowledgment of Heir in Lease.*

I, A. B., [*designation*], proprietor infeft in the lands of C., by infeftment recorded [*register, and date of recording*], acknowledge D. E. [*designation*] as [*specify relationship*], and heir of the deceased F. G., [*designation*], to be in right of a lease granted by H. J., [*designation*], of ——, [*shortly mention subjects*], in the parish of ——, and county of ——, being a portion of the said lands of C., which lease is dated ——, and recorded, [*register, and date of recording*], and [*where the deceased not the original lessee*] the title of the said F. G. being recorded in the said register, of date ——.

[*Testing clause.*]

No. 2.—*Acknowledgment of Heir of Creditor in Assignation in Security.*

I, A. B., [*designation*], being in right of a lease granted by C. D., [*designation*], of ——, [*shortly specify subjects*], in the parish of ——, and county of ——, which lease is dated ——, and recorded, [*register, and date of recording*], and [*where grantor not the lessee named in the lease*] my title to which is recorded in said register, [*date of recording*], acknowledge E. F. [*designation*] as [*specify relationship*], and heir of the deceased G. H., [*designation*], to be in right of a bond and assignation in security for the sum of £—— [*or as the case may be*] granted by I. K. [*designation*] over said lease, which bond and assignation in security is dated ——, and recorded in the said register on [*date*], and [*where the deceased not the original creditor*] the title of the said G. H. to which bond and assignation in security is recorded in the said register on [*date.*]

[*Testing clause.*]

Schedule (F.)

FORM OF NOTARIAL INSTRUMENT IN FAVOUR OF HEIR IN RECORDED LEASE OR ASSIGNATION IN SECURITY, OR OF TRUSTEE ON SEQUESTRATED ESTATE.

No. 1.—*Case of Lease.*

Be it known, that by lease dated ——, A. B. [*designation*] let to C. D. [*designation*] that piece of ground [*or as the case may be, shortly describing the property leased*] in the parish of ——, and county of ——, which lease is recorded, [*register, and date of recording*], and to which E. F. [*designation*] has made up title by service as [*specify relationship*], and heir of the said C. D., dated the [*insert date of service*], before the [*specify the Court before which the heir has been served*], and duly retoured to Chancery, [*or, as the case may be,* as general disponee of the said C. D., *or*, as heir (*or*, general disponee) of L. M. in an assignation by the said C. D., of date ——, *or*, as trustee confirmed on the sequestrated estate of the said C. D., in virtue of *(here mention the writs or decreets, instructing the rights, with the dates thereof, and if recorded, the register, and date of recording)*]: whereupon this instrument is taken by the said E. F., in the hands of G. H., [*designation of notary public*], in terms of the Registration of Leases (Scotland) Act, 1857.

[*Testing clause.*]

No. 2.—*Case of Assignation in Security.*

Be it known, that by bond and assignation in security, of date ——, C. D. [*designation*] assigned to I. K., [*designation*], in security of a sum of £——, [*or as the case may be*], a lease granted by A. B., [*designation*], of ——, [*shortly describe the subjects leased*], in the parish of ——, and county of ——, dated ——, and recorded, [*register, and date of recording*], to which bond and assignation in security E. F. [*designation*] has acquired right as [*specify relationship*], and heir of the said I. K., &c. [*as in Form No.* 1.]

Schedule (G.)

RENUNCIATION OF LEASE.

I, A. B., [*designation*], renounce, as from the term of ——, in favour of C. D., [*designation*], a lease granted by the said C. D., [*or as the case may be*], of ——, [*shortly set forth subjects*], in the parish of ——, and county of ——, which lease is dated ——, and recorded, [*register, and date of recording*], and [*where the party renouncing, not the original lessee*] my title to which is recorded in the said register on [*date.*]

[*Testing clause.*]

Schedule (H.)

FORM OF DISCHARGE OF BOND AND ASSIGNATION IN SECURITY.

I, A. B., [*designation*], in consideration of the sum of £—— now paid to me by C. D., [*designation*], discharge a bond and assignation in security for the sum of £——, granted by the said C. D. in my favour, [*or as the case may be**], and which is dated ——, and recorded in the [*register, and date of recording*]; and I declare to be disburthened thereof a lease granted by E. F., [*designation*], of ——, [*shortly mention subjects leased*], in the parish of ——, and county of ——, which lease is dated ——, and recorded [*register, and date of recording.*]

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* *Note.*—If the person in whose favour the instrument is taken is not the heir or disponee of the original grantee, but of one who has acquired right to the lease or assignation in security, here specify shortly the series of titles by which the predecessor acquired the right.

[*Testing clause.*]

CAP. XXVII.

An Act to amend the Acts relating to the Caledonian and Crinan Canals, and to make further Provision for the Accommodation of the Traffic thereon. [10th August, 1857.]

CAP. XXVIII.

An Act to amend the Laws relating to the Payment of the Land and Assessed Taxes and Property and Income Tax in Scotland. [10th August, 1857.]

Sect. 1. Recited provisions repealed of stats. 43 Geo. 3, c. 161, and 5 & 6 Vict. c. 35.

2. In Scotland the inhabited house duty, assessed taxes, land tax, and property and income tax payable every year on or before the 1st January.

CAP. XXIX.

An Act to render valid certain Marriages in Christ Church, West Hartlepool, in the Parish of Stranton, in the County of Durham. [10th August, 1857.]

CAP. XXX.

An Act for enabling the Commissioners of the Admiralty to purchase certain Lands in the Parish of Chatham, in the County of Kent, and to stop up, divert, or alter certain Ways in the said Parish; and for other Purposes relating thereto. [10th August, 1857.]

CAP. XXXI.

An Act to amend and explain the Inclosure Acts. [10th August, 1857.]

Sect. 1. *Fences may be dispensed with.*
2. *Allotments until fenced to be deemed a regulated pasture.*
3. *Notices and claims may be sent by post, or left at the usual place of abode.*
4. *Exchanges of land by railway and other companies.*
5. *Exchange of lands in which her Majesty is interested in reversion.*
6. *On an exchange, inequality of value may be compensated by a rent-charge.*
7. *On a partition, disproportion in value of allotments in severalty may be compensated by a rent-charge.*
8. *Deficiency in value not to exceed one-eighth of the actual value.*
9. *Amount of rent-charge, and lands to be charged, to be determined by the inclosure award or order of exchange, &c.*
10. *Indefeasible title, and priority and recovery of rent-charges.*
11. *Rent-charge to go with the land the deficiency in value whereof it compensates.*
12. *Protecting from nuisances town and village greens, and allotments for exercise and recreation.*
13. *Power to commissioners to review instructions given under sect.* 34 *of the* 8 & 9 *Vict. c.* 118, *as to appropriation of allotments for sites of schools, &c.*
14. *Act deemed part of "The Acts for the Inclosure, &c. of Land."*

Whereas it is expedient that the Acts for the Inclosure, Exchange, and Improvement of Land should be further amended and extended: be it enacted &c. as follows:—

Sect. 1. In any case of inclosure in which it shall appear to the Inclosure Commissioners of England and Wales to be unnecessary that all or any of the allotments to be made under the award of the valuer acting in the matter of such inclosure should be fenced, it shall be lawful for the said commissioners, by an order under their hands and seal, if they shall see fit to dispense with the erection of boundary and other fences, to direct that such allotments, or any of them, shall be distinguished by metes and bounds: provided nevertheless, that any person interested in an allotment may at any time fence the same at his own expense.

2. So long as any of such allotments remain unfenced, the same shall be subject to the provisions of the said acts relating to regulated pastures, in such manner as the valuer, with the approbation of the said commissioners, shall by his award direct; and the owners thereof shall enjoy all such rights of common, by reason of vicinage, as they were entitled to prior to the setting out of such allotments.

3. Where, by the said acts, notice is required to be given to any designated person, or any claim is required to be delivered to the valuer in the matter of any inclosure, such notice may be given, or claim delivered, either by sending it by the post in a registered letter, or by leaving it at the office or usual place of abode of such person or valuer respectively.

4. For the purpose of removing all doubts as to the power of companies incorporated by special act of Parliament for the making and maintaining of any railway, canal, docks, harbour, waterworks, or other work, to exchange land belonging to such companies under the provisions of the said acts, be it declared and enacted, that every such company shall be deemed to be a person interested within the meaning of the Acts for the Inclosure, Exchange, and Improvement of Land, for the purpose of exchanging land belonging to the said company, and that notwithstanding the provisions in any act of Parliament relating to such company specially limiting the purposes to which such land belonging to the said company shall be applicable.

5. In case any person interested according to the definition contained in the 16th section of the 8 & 9 Vict. c. 118, shall apply to the Inclosure Commissioners for an order of exchange of any land in which her Majesty, her heirs or successors, have any estate or interest in right of the Crown, in reversion or remainder expectant upon the determination of any estate for life, or other larger interest, it shall be lawful for the Inclosure Commissioners to make such order of exchange, if they shall so think fit, provided that the consent of her Majesty, her heirs or successors, shall have been previously signified thereto by some writing under the hand of one of the Commissioners of her Majesty's Woods, Forests, and Land Revenues; and every such order of exchange which shall be made with such consent shall be valid and effectual, to all intents and purposes whatsoever, and shall be binding upon her Majesty, her heirs and successors, and a duplicate thereof shall in every case be deposited in the office of land revenue records and inrolments: provided always, that in case any such order shall, previously to the passing of this act, have been made upon the application of any person as above mentioned, with the said consent previously signified as aforesaid, every such order shall be as valid and effectual, and be in like manner binding upon her Majesty, her heirs and successors, as if the said consent had been given under the provisions of this act.

6. Where the value of any land proposed to be exchanged under the Acts for the Inclosure, Exchange, and Improvement of Land, or any of them, exceeds the value of the land, rights, easements, or hereditaments for which the same is proposed to be exchanged, the difference in value may be compensated by a perpetual rent-charge of such amount as in the opinion of the valuer or commissioners (as the case may require) will be just, to be charged upon the land for the excess in value whereof the same is intended as an equivalent, or upon such part thereof as may appear to the valuer or commissioners (as the case may require) to afford sufficient security for such rent-charge.

7. Where any land of which a partition is proposed to be made under the said acts, or any of them, cannot in the opinion of the valuer or commissioners (as the case may be) be conveniently allotted in severalty in parts or shares of the like proportional values as the undivided parts or shares in respect whereof the partition is proposed to be made, the difference in such proportional values may be compensated by a perpetual rent-charge of such amount, or perpetual rent-charges of such aggregate amount, as in the opinion of the valuer or commissioners (as the case may require) will be just, to be charged on the land or respective lands for the excess in value whereof the same is or are intended as an equivalent or equivalents, or upon such part or respective parts of such land or lands as may appear to the valuer or commissioners (as the

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* *Note.*—If grantor not original creditor, here state his title, and date of recording the same.

case may require) to afford sufficient security for such rent-charge or rent-charges respectively.

8. Provided always, that nothing herein contained shall extend to authorise any exchange or partition, or the creation of any such rent-charge as aforesaid, where in the opinion of the valuer or commissioners (as the case may be) the deficiency in value of any land or other hereditaments which would require to be compensated as aforesaid exceeds one-eighth part of the actual value thereof.

9. The amount of the rent-charge or respective amounts of the rent-charges (as the case may be) to be created under this act, on any such exchange or partition as aforesaid, and the land or lands to be charged therewith, shall respectively be fixed and determined by the inclosure award or order of exchange or partition, (as the case may require).

10. Every such rent-charge shall be a valid and indefeasible charge upon the land charged therewith by the confirmed inclosure award or the confirmed order of exchange or partition, (as the case may be), subject only to tithe rent-charges, land tax, local rates and taxes, quit or chief rents incidental to tenure, and charges created or to be created under any act authorising advances of public or private money for drainage or the improvement of lands, and prior to all other charges whatsoever, and shall be recoverable in the same manner as a tithe rent-charge charged under the act of the session holden in the 6 & 7 Will. 4, c. 71, for the commutation of tithes in England and Wales.

11. Every rent-charge created under this act shall be and enure to, for, and upon the same uses, trusts, intents, and purposes, and be subject to the same conditions, charges, and incumbrances, as the land or hereditaments in respect of the deficiency in value whereof such rent-charge is made payable will stand and be limited and subject to after the confirmation of the inclosure award or the order of exchange or partition, (as the case may be).

12. And whereas it is expedient to provide summary means of preventing nuisances in town greens and village greens, and on land allotted and awarded upon any inclosure under the said acts as a place for exercise and recreation: if any person wilfully cause any injury or damage to any fence of any such town or village green or land, or wilfully and without lawful authority lead or drive any cattle or animal thereon, or wilfully lay any manure, soil, ashes, or rubbish, or other matter or thing thereon, or do any other act whatsoever to the injury of such town or village green or land, or to the interruption of the use or enjoyment thereof as a place for exercise and recreation, such person shall for every such offence, upon a summary conviction thereof before two justices, upon the information of any churchwarden or overseer of the parish in which such town or village green or land is situate, or of the person in whom the soil of such town or village green or land may be vested, forfeit and pay, in any of the cases aforesaid, and for each and every such offence, over and above the damages occasioned thereby, any sum not exceeding 40*s.*; and it shall be lawful for any such churchwarden or overseer, or other person as aforesaid, to sell and dispose of any such manure, soil, ashes, and rubbish, or other matter or thing as aforesaid, and the proceeds arising from the sale thereof, and every such penalty as aforesaid, shall, as regards any such town or village green not awarded under the said acts, or any of them, to be used as a place for exercise and recreation, be applied in aid of the rates for the repair of the public highways in the parish, and shall, as regards the land so awarded, be applied, by the persons or person in whom the soil thereof may be vested, in the due maintenance of such land as a place for exercise and recreation; and if any manure, soil, ashes, or rubbish be not of sufficient value to defray the expense of removing the same, the person who laid or deposited such manure, soil, ashes, or rubbish shall repay to such churchwarden or overseer, or other person as aforesaid, the money necessarily expended in the removal thereof; and every such penalty as aforesaid shall be recovered in manner provided by the act of the session holden in the 11 & 12 Vict. c. 43; and the amount of damage occasioned by any such offence as aforesaid shall, in case of dispute, be determined by the justices by whom the offender is convicted; and the payment of the amount of such damage, and the repayments of the money necessarily expended in the removal of any manure, soil, ashes, or rubbish, shall be enforced in like manner as any such penalty.

13. Where instructions shall have been or shall hereafter be given, under the 34th section of the act of the 8 & 9 Vict. c. 118, for the appropriation of any allotment for the site of a school, and such instructions shall not set forth with sufficient clearness for what class of children the school shall be provided, or to whom the site shall be conveyed, or in what manner and by whom the school shall be managed, visited, and inspected, the Inclosure Commissioners shall, upon the requisition of any five persons, if there be so many, or if not, a majority of the persons interested in the land to be inclosed, call a further meeting in order to resolve upon other or further instructions; and if at such meeting any other or further instructions be agreed upon, the same, if sanctioned by the commissioners, shall thenceforth be added to or substituted for, as the case may require, all former instructions relative to such school, and the commissioners shall appoint (whenever needful) some person to convey the allotment for a school in pursuance of the instructions last approved.

14. This act shall be taken to be a part of the said acts, and shall be construed therewith, and be deemed to be included under any reference to "The Acts for the Inclosure, Exchange, and Improvement of Land."

CAP. XXXII.

An Act for the better Supply of Water for the Use of Vessels resorting to the Harbour of Refuge at Portland, and for enabling the Commissioners of the Admiralty to supply such Water; for vesting in the said Commissioners certain Lands belonging to her Majesty; and for other Purposes relating thereto. [10th August, 1857.]

CAP. XXXIII.

An Act to regulate certain Proceedings in relation to the Election of Representative Peers for Ireland. [10th August, 1857.]

Sect. 1. *As to issue of writs in future on occasion of seat of a temporal peer of Ireland being vacated.*
2. *As to returns to such writs.*

Whereas by an act passed by the Parliament of Ireland in the 40 Geo. 3, intituled "An Act to regulate the Mode by which the Lords Spiritual and Temporal, and the Commons, to serve in the United Kingdom on the Part of Ireland, shall be summoned and returned to the said Parliament," certain provisions were made for regulating the proceedings in relation to the elections of representative peers for Ireland, and it is expedient to amend the same: be it therefore enacted &c. as follows:—

Sect. 1. On any seat of the twenty-eight lords temporal being hereafter vacated, the writ to be issued, according to the provisions of the said act of the Parliament of Ireland, under the Great Seal of the United Kingdom, to the Chancellor, Keeper, or Commissioners of the Great Seal of Ireland, shall direct him or them to cause writs to be issued by the clerk of the Crown in Ireland to the peers entitled to receive the same according to the provisions of the said act, and also to every peer in respect to whose right to vote at the election of representative peers the House of Lords shall have directed a certificate to be sent to the clerk of the Crown in Ireland, stating that the Chancellor or Keeper of the Great Seal of the United Kingdom had reported to the House that the right of such peer to vote had been established to his satisfaction, and that the House had ordered such report to be sent to the said clerk of the Crown in Ireland; and all the provisions of the said act applicable to temporal peers receiving writs under the same, and to the writs issued to such peers, shall be held to apply to temporal peers receiving writs, and to the writs issued under this act.

2. Any peer of Ireland who shall have taken and subscribed in the House of Lords the oaths which are or shall be by law required to be taken and subscribed by the lords of the United Kingdom before they can sit and vote in the Parliament thereof may make return to a writ issued under this or the said act, in the same manner as a representative peer on the part of Ireland who has taken and subscribed the said oaths in the House of Lords is permitted to do under the said act, and any peer of Ireland receiving such writ may take and subscribe the said oaths in her Majesty's High Court of Chancery in England as well as in Ireland, or in her Majesty's Courts of Queen's Bench, Common Pleas, or Exchequer in England or Ireland, or in any division of the Court of Session in Scotland, or before any lord ordinary of the said court, or before the lieutenant of any county in Great Britain or Ireland, or any member of her

Majesty's Privy Council in Great Britain or Ireland, or any judge of a county court in England, or any sheriff in Scotland, or any British ambassador or minister accredited to any foreign court, or the secretary of any British embassy or mission, or the governor, lieutenant governor, or officer administering the government of any of her Majesty's plantations, colonies, or possessions abroad, or any of her Majesty's judges residing therein, and the registrar or other proper officer of every such court; and every person above mentioned before whom the said oaths shall be taken and subscribed shall certify the same, and sign such certificate, which shall be transmitted by such peer with the return in the manner prescribed in the said act.

CAP. XXXIV.

An Act to explain an Act for the Settlement of the Boundaries between the Provinces of Canada and New Brunswick. [10th August, 1857.]

CAP. XXXV.

An Act to amend an Act passed in the Fifteenth and Sixteenth Years of the Reign of her present Majesty Queen Victoria, intituled "An Act to amend the Laws concerning the Burial of the Dead in the Metropolis," so far as relates to the City of London and the Liberties thereof. [10th August, 1857.]

Sect. 1. The fees in schedule to be fees payable to incumbents.

2. Approval of a majority of vestries in the city of London to be sufficient.

3. Certain sections in recited act repealed as to the city of London.

4. Commissioners, acting as burial board, with the approval of the major part of the vestries, to settle fees payable to churchwardens, &c.

5. Fees to be paid by the commissioners.

6. Commissioners to settle fees for burial of persons not residing in London.

7. Chaplains of cemetery to conform to regulations of commissioners.

8. Interpretation of terms.

9. Expenses of act.

CAP. XXXVI.

An Act to supply an Omission in a Schedule to the Act to amend the Acts relating to County Courts. [17th August, 1857.]

Sect. 1. The 19 & 20 Vict. c. 108, to take effect as to salaries of T. Falconer and J. St. John Yates, Esquires, when it came into operation.

CAP. XXXVII.

An Act to repeal the Twenty-seventh Section of the Superannuation Act, 1834. [17th August, 1857.]

CAP. XXXVIII.

An Act to continue the General Board of Health. [17th August, 1857.]

Sect. 1. Board of Health continued until the 1st September, 1858.

2. No salary to be payable to a president holding at the time of his appointment any office of profit.

CAP. XXXIX.

An Act to regulate the Admission of Attornies and Solicitors of Colonial Courts in her Majesty's Superior Courts of Law and Equity in England in certain Cases. [17th August, 1857.]

Sect. 1. *Short title.*

2. *When act to come into operation.*

3. *Attornies and solicitors of colonial courts to be admitted to courts of law and equity in England.*

4. *No person to be deemed qualified unless he shall pass an examination, and produce a certificate from the judge of the court where he was admitted.*

5. *Judges of courts of common law to appoint examiners.*

6. *Stamp duties on admissions.*

7. *Power to her Majesty, by Order in Council, to direct this act to come into operation in any one or more colony or dependency.*

Whereas in certain of her Majesty's colonies and dependencies, including certain parts of the territories under the government of the East India Company, the system of jurisprudence is founded on or assimilated to that administered in England, and the attornies and solicitors of the superior courts of law and equity in England are admitted as attornies and solicitors in the courts of law and equity of such colonies and dependencies, on production of their certificates of admission in the English courts aforesaid; and it is considered just and expedient to afford facilities to the attornies and solicitors of the superior courts in certain colonies and dependencies for obtaining admission in her Majesty's courts of law and equity in England: be it therefore enacted &c. as follows:—

1. This act may for all purposes be cited as "The Colonial Attornies Relief Act."

2. This act shall not take effect in any one or more of her Majesty's colonies or dependencies until her Majesty has, by Order in Council to be made as hereinafter mentioned, directed the same to come into operation in respect to such colony or dependency.

3. All persons who, being subjects of the British Crown, have been or shall hereafter be duly admitted and inrolled as attornies and solicitors in the superior courts of law and equity in those of her Majesty's colonies or dependencies where the system of jurisprudence is founded on or assimilated to the common law and principles of equity as administered in England, and where full service under articles of clerkship to an attorney-at-law for the space of five years at the least, and an examination to test the qualification of candidates, are or may be required previous to such admission, save only in the case of persons previously admitted as attornies or solicitors in the superior courts of law or equity in England, such colonies or dependencies to be from time to time specified in and by Order in Council, as hereinafter provided, shall and may be admitted and inrolled attornies in all or any of the Courts of Queen's Bench, Common Pleas, and Exchequer, and other courts in England, and solicitors in the High Court of Chancery in England, subject as hereinafter provided.

4. No person shall be deemed qualified to be admitted as attorney or solicitor, under the provisions of this act, unless he shall pass such examination to test his fitness and capacity as hereinafter provided, and shall produce at such examination a certificate from the presiding judge of the superior court of common law in the colony or dependency where such person shall have been duly admitted an attorney and solicitor, and stating the amount of the stamps which have been paid by such person on his articles of clerkship and admission to practise in such colony, in the form or to the effect as contained in Schedule (A.) hereunto annexed, and shall further make affidavit (in such manner as shall be provided by order or regulation to be made by the judges of the superior courts of common law, and the Master of the Rolls respectively, as hereinafter provided) that he is resident within the jurisdiction of the said superior courts of law and equity in England, and that he has ceased, for the space of twelve calendar months at the least, to practise as attorney or solicitor in any colonial court of law.

5. It shall be lawful for the judges of the Courts of Queen's Bench and Common Pleas and Exchequer, or any three or more of them, as and when any person shall, under the provisions of this act, seek to be admitted as an attorney, and not as a solicitor also, and for the Master of the Rolls, as and when any person shall seek as aforesaid to be admitted as a solicitor, and not as an attorney also, and for the said judges, or any three or more of them, and the Master of the Rolls, jointly, when any person shall seek as aforesaid to be admitted as an attorney and solicitor, and he and they are hereby authorised and required, at any time before he and they shall admit or issue a fiat for the admission of any such person as aforesaid, to examine and inquire, by such ways and means as he or they shall think proper, touching the qualification and the fitness or capacity of such person to act as an attorney or solicitor, or as an attorney and solicitor, and for that purpose it shall be lawful for him or them from time to time, as application for admission as aforesaid shall be made, to appoint such persons as examiners, and to make such orders and regulations for conducting such examination, as he or they shall think proper; and if by any such examination any of the judges of the said courts

of common law shall be satisfied that such person is duly qualified and fit and competent to be admitted to act as an attorney, then, and not otherwise, any one of the said judges shall, and he is hereby authorised and required to, administer or cause to be administered to such person the oaths by law required to be administered to attornies in England, and, after such oaths taken, to cause him to be admitted an attorney of such courts, which admission shall be written on parchment, and signed by such judge, and shall be stamped with the stamps after mentioned; and if by such examination the Master of the Rolls shall be satisfied that such person is duly qualified and fit and competent to be admitted to act as a solicitor, then, and not otherwise, he is hereby authorised and required to administer or cause to be administered to such person the oaths by law required to be taken, and to cause him to be admitted a solicitor in the Court of Chancery, and his name to be inrolled as a solicitor of such court, which admission shall be written on parchment, and signed by the Master of the Rolls, and shall be stamped with the stamps after mentioned.

6. The admission of any person as an attorney or solicitor under the provisions of this act shall be stamped with the stamps by law required to be impressed on the admission of attornies or solicitors in England, (as the case may be), and the admission first obtained shall be impressed with such further stamp as shall, together with the amount of stamps paid on articles of clerkship and admission in the colony, (to be ascertained as hereinafter provided), be equal in amount to the sum by law payable on articles of clerkship in England.

7. Her Majesty may from time to time, by Order in Council, direct this act to come into operation as to any one or more of her Majesty's colonies or dependencies, and thereupon, but not otherwise, the provisions of this act shall apply to persons duly admitted as attornies and solicitors in the superior courts of law and equity in such colonies or dependencies; but no such Order in Council shall be made in respect of any colony except upon application made by the governor or person exercising the functions of governor of such colony or dependency, and until it shall be shewn to the satisfaction of her Majesty's Principal Secretary of State for the Colonies that the system of jurisprudence as administered in such colony or dependency, and the qualification for admission as an attorney or solicitor in the superior courts of law and equity in such colony or dependency, answer to and fulfil the conditions specified in sect. 3 hereinbefore contained, and also that the attornies or solicitors of the superior courts of law or equity in England are admitted as attornies and solicitors in the superior courts of law and equity of such colony or dependency, on production of their certificates of admission in the English courts, without service or examination in the colony or dependency.

SCHEDULE (A.)

To all whom it may concern.—I, [*name and style of judge*], do hereby certify, that [*terms of certificate of admission granted to the attorney in the colony*], and that the said [*attorney's name*] is now duly inrolled as an attorney-at-law and solicitor in this colony, and entitled to practise as such; and further, that no charge or accusation has been established or is pending against the said —— in such his professional character or otherwise affecting his fair fame and repute. And I find that the sum of £—— was paid on articles of clerkship when the said —— was articled, and the sum of £—— on the certificate of admission when he was admitted to practise as aforesaid. [*To be signed and attested in the manner usual in other certificates granted by the judge.*]

CAP. XL.

An Act to continue and amend an Act of the 17 & 18 Vict. c. 89, and also the Laws for the Suppression and Prevention of Illicit Distillation in Ireland; and to constitute the Constabulary Force Officers of Customs for certain Purposes. [17th August, 1857.]

Sect. 1. *Certain sections of the* 17 *&* 18 *Vict. c.* 89, *and the* 18 *&* 19 *Vict. c.* 103, *repealed.*
2. *As to disposal of seizures made under recited act and this act.*
3. *Penalties and proceeds of sales of seizures, to whom to be paid.*
4. *Lord Lieutenant may appoint officers for the prevention of illicit distillation. As to pay and expenses of officers appointed under this act.*
5. *Officers of constabulary to have the same power as officers of excise and customs in relation to certain offences.*
6. *Proceedings to be conducted according to the provisions of the* 14 *&* 15 *Vict. c.* 93.
7. *Treasury may grant compensation to officers of the revenue police deprived of their employment by the operation of this act.*
8. *Interpretation of terms.*

Whereas an act was passed in the 17 & 18 Vict. c. 89, and it is expedient to amend the same, and also the laws for the suppression and prevention of illicit distillation in Ireland: be it enacted &c. as follows:—

Sect. 1. Sects. 13, 14, and 17 of the said act, and also sect. 3 of the 18 & 19 Vict. c. 103, shall be and the same are hereby repealed.

2. All seizures to be made under the provisions of the said act of the 17 & 18 Vict., or of this act, by any officer, head or other constable, shall (except in the cases in this clause hereinafter provided for, and except also in cases of seizures made under the Customs Consolidation Act, 1853, hereinafter referred to) be destroyed or otherwise disposed of, as the inspector-general of constabulary shall direct in that behalf: provided always, that all seizures which may be made, under the powers or directions of the 6th section of the said act of the 17 & 18 Vict., of spirits in transitu or process of removal from place to place, where the same shall be sent or removed from or by any licensed distiller or rectifier of, or dealer in, or retailer of spirits, shall be disposed of in such manner as the Commissioners of Inland Revenue may direct or authorise in that behalf.

3. All penalties to be recovered by officers of constabulary by virtue of the powers conferred or to be conferred on them under the authority of the said last-mentioned act and of this act, and also the proceeds of the sale of any seizure to be made by them under the said powers, where such seizure may, at the discretion of the inspector-general of constabulary, be sold, shall, after deducting and paying thereout all reasonable expenses, be handed over to the Commissioners of Inland Revenue, or to such person as they shall appoint, for the use of her Majesty, anything contained in any former act to the contrary notwithstanding.

4. And for the purpose of carrying into effect the provisions of the several acts for the suppression and prevention of illicit distillation in Ireland, it shall be lawful for the Lord Lieutenant, or other chief governor or governors of Ireland, from time to time to appoint such and so many officers as he or they shall consider necessary or proper in that behalf, and also to revoke the appointment of any such officers; and all such officers so to be appointed shall have, use, and exercise the same powers and duties, and shall be entitled to and receive the same pay and allowances, and be under and subject to the same rules and regulations, and liable to the same deductions and contributions with respect to superannuation allowances, reward fund, and otherwise, as officers of the like rank appointed under the several acts relating to the constabulary force in Ireland: provided always, that the pay and expenses of all such officers as may be appointed in pursuance of this act shall be paid out of monies provided by Parliament applicable to such expenses; and provided also, that nothing in this act shall interfere with the distribution of the existing constabulary force in reference to their present duties in the respective counties.

5. All officers of the said constabulary force appointed or to be appointed under any act relating to the said force, or under this act, shall have, use, and exercise all the powers and authorities, and have and possess all the privileges, granted to officers of excise in relation to any offence committed or to be committed, or suspected to be committed, under or contrary to the act passed in the 1 & 2 Will. 4, c. 55, intituled "An Act to consolidate and amend the Laws for suppressing the illicit making of Malt and Distillation of Spirits in Ireland," or in relation to any offence mentioned in the 138th section of the act passed in the 6 Geo. 4, c. 80, which said last-mentioned section is hereby extended to Ireland, and shall have, use, and exercise all the powers and authorities, and have and possess all the privileges, which are or may be exercised, had, or possessed by any officer of customs under the Customs Con-

solidation Act, 1853, or any other act now in force or hereafter to be passed, in relation to the customs, so far as relates to any seizure, detention, or prosecution which may be made or had under any such act or acts, and shall be deemed and considered to be officers of customs for such purposes; but such officers of the constabulary force shall have, use, and exercise the powers and authorities conferred by this act so long only as they shall be and continue officers of such constabulary force.

6. All proceedings under the said act of the 1 & 2 Will. 4, and the said 138th section of the act of the 6 Geo. 4, shall be conducted, and all penalties and costs under the same shall be sued for, levied, and recovered, as by the Petty Sessions (Ireland) Act, 1851, is directed and provided, anything in the said acts or any of them to the contrary notwithstanding.

7. And whereas the carrying into effect by the said constabulary force of the provisions of the said acts for the suppression and prevention of illicit distillation in Ireland may eventually render unnecessary the employment of the force now known as the revenue police in Ireland, and will in the meantime enable the Commissioners of Inland Revenue to reduce the numbers of the said last-mentioned force, and it is proper to provide for the compensation of officers and men of the said revenue police who may lose their employment by the discontinuance or reduction of the said last-mentioned force: be it enacted, that it shall be lawful for the commissioners of her Majesty's Treasury to grant and allow to any officer or other person who may be deprived of his employment in the said revenue police by reason of any such discontinuance or reduction of the said force as aforesaid such compensation, either by way of pension or gratuity, as the said last-mentioned commissioners may think proper and reasonable in that behalf, to be paid out of the monies provided by Parliament for that purpose: provided always, that if any such officer or other person of the said revenue police shall be appointed under the powers of this act to the said constabulary force, his previous service in the said revenue police shall, for the purpose of superannuation allowance and otherwise, be counted as service in the said constabulary force; provided that a sum of money equal to the rate of 2*l.* 10*s.* per cent. on the aggregate amount of the pay of an officer of the constabulary force for the period of such service in the said revenue police shall be paid on his behalf to the Constabulary Superannuation and Reward Funds.

8. The term "officer" or "officers," used in this act with reference to the constabulary force in Ireland, shall include head or other constable of the said constabulary force.

CAP. XLI.

An Act to revive and continue an Act to amend the Laws relating to Loan Societies. [17th August, 1857.]

Sect. 1. Stat. 3 & 4 Vict. c. 110, revived and continued.

2. After expiration of the 3 & 4 Vict. c. 110, provisions to remain in force as to existing societies, save as to new loans.

3. Repealed provision of the 5 & 6 Will. 4, c. 23, not to be revived.

CAP. XLII.

An Act to amend the Burial Grounds (Scotland) Act, 1855. [17th August, 1857.]

Sect. 1. Sect. 28 of the 18 & 19 Vict. c. 68, repealed.

2. Commissioners of Public Works may make loans to parochial boards for the purposes of the Burial Ground (Scotland) Act.

CAP. XLIII.

An Act to improve the Administration of the Law so far as respects Summary Proceedings before Justices of the Peace. [17th August, 1857.]

Sect. 1. *Interpretation of terms.*
2. *Justices, on application of a party aggrieved, to state a case for the opinion of superior court.*
3. *Security and notice to be given by the appellant.*
4. *Justices may refuse a case where they think the application frivolous.*
5. *Where the justices refuse, the Court of Queen's Bench may by rule order a case to be stated.*
6. *Superior court to determine the questions on the case: its decisions to be final.*
7. *Case may be sent back for amendment.*
8. *Powers of superior court may be exercised by a judge at chambers.*
9. *After the decision of superior court, justices may issue warrants.*
10. *Certiorari not to be required for proceedings under this act.*
11. *Superior courts may make rules for proceedings.*
12. *"Justices" to include a stipendiary magistrate.*
13. *Recognisances, how to be enforced.*
14. *Appellants under this act not allowed to appeal to quarter sessions.*
15. *Extent of act.*

Whereas it is expedient that provision should be made for obtaining the opinion of a superior court on questions of law which arise in the exercise of summary jurisdiction by justices of the peace: be it enacted as follows:—

Sect. 1. In the interpretation and for the purposes of this act the following words shall have the meaning hereinafter assigned to them; that is to say—

"Superior courts of law" shall for England mean the supreme courts of law at Westminster, and for Ireland the supreme courts of law at Dublin:

"Court of Queen's Bench" shall mean for England the Court of Queen's Bench at Westminster, and for Ireland the Court of Queen's Bench at Dublin.

2. After the hearing and determination by a justice or justices of the peace of any information or complaint which he or they have power to determine in a summary way, by any law now in force or hereafter to be made, either party to the proceeding before the said justice or justices may, if dissatisfied with the said determination as being erroneous in point of law, apply in writing, within three days after the same, to the said justice or justices, to state and sign a case, setting forth the facts and the grounds of such determination, for the opinion thereon of one of the superior courts of law to be named by the party applying; and such party, hereinafter called "the appellant," shall, within three days after receiving such case, transmit the same to the court named in his application, first giving notice in writing of such appeal, with a copy of the case so stated and signed, to the other party to the proceeding in which the determination was given, hereinafter called "the respondent."

3. The appellant, at the time of making such application, and before a case shall be stated and delivered to him by the justice or justices, shall in every instance enter into a recognisance, before such justice or justices, or any one or more of them, or any other justice exercising the same jurisdiction, with or without surety or sureties, and in such sum as to the justice or justices shall seem meet, conditioned to prosecute without delay such appeal, and to submit to the judgment of the superior court, and pay such costs as may be awarded by the same; and the appellant shall at the same time, and before he shall be entitled to have the case delivered to him, pay to the clerk to the said justice or justices his fees for and in respect of the case and recognisances, and any other fees to which such clerk shall be entitled, which fees, except such as are already provided for by law, shall be according to the schedule to this act annexed marked (A.), until the same shall be ascertained, appointed, and regulated in the manner prescribed by the stat. 11 & 12 Vict. c. 43, s. 30; and the appellant, if then in custody, shall be liberated upon the recognisance being further conditioned for his appearance before the same justice or justices, or, if that is impracticable, before some other justice or justices exercising the same jurisdiction who shall be then sitting, within ten days after the judgment of the superior court shall have been given, to abide such judgment, unless the determination appealed against be reversed.

4. If the justice or justices be of opinion that the application is merely frivolous, but not otherwise, he or they may refuse to state a case, and shall, on the request of the appellant, sign and deliver to him a certificate of such refusal; provided, that the justice or justices shall not refuse to state a case where application for that purpose is made to them by or under the direction of her Majesty's Attorney-General for England or Ireland, as the case may be.

5. Where the justice or justices shall refuse to state a case as aforesaid, it shall be lawful for the appellant to apply to the Court of Queen's Bench, upon an affidavit of the facts, for a rule calling upon such justice or justices, and also upon the respondent, to shew cause why such case should not be stated;

and the said court may make the same absolute, or discharge it, with or without payment of costs, as to the court shall seem meet, and the justice or justices, upon being served with such rule absolute, shall state a case accordingly, upon the appellant entering into such recognisance as is hereinbefore provided.

6. The court to which a case is transmitted under this act shall hear and determine the question or questions of law arising thereon, and shall thereupon reverse, affirm, or amend the determination in respect of which the case has been stated, or remit the matter to the justice or justices, with the opinion of the court thereon, or may make such other order in relation to the matter, and may make such orders as to costs, as to the court may seem fit; and all such orders shall be final and conclusive on all parties: provided always, that no justice or justices of the peace who shall state and deliver a case in pursuance of this act shall be liable to any costs in respect or by reason of such appeal against his or their determination.

7. The court for the opinion of which a case is stated shall have power, if they think fit, to cause the case to be sent back for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it shall have been amended.

8. The authority and jurisdiction hereby vested in a superior court for the opinion of which a case is stated under this act shall and may (subject to any rules and orders of such court in relation thereto) be exercised by a judge of such court sitting in chambers, and as well in vacation as in term time.

9. After the decision of the superior court in relation to any case stated for their opinion under this act, the justice or justices in relation to whose determination the case has been stated, or any other justice or justices of the peace exercising the same jurisdiction, shall have the same authority to enforce any conviction or order, which may have been affirmed, amended, or made by such superior court, as the justice or justices who originally decided the case would have had to enforce his or their determination if the same had not been appealed against; and no action or proceeding whatsoever shall be commenced or had against the justice or justices for enforcing such conviction or order, by reason of any defect in the same respectively.

10. No writ of certiorari or other writ shall be required for the removal of any conviction, order, or other determination in relation to which a case is stated under this act, or otherwise, for obtaining the judgment or determination of the superior court on such case under this act.

11. The superior courts of law may from time to time, and as often as they shall see occasion, make and alter rules and orders to regulate the practice and proceedings in reference to the cases hereinbefore mentioned.

12. The words "justice or justices" in this act shall include a magistrate of the police courts of the metropolis and any stipendiary magistrate.

13. In all cases where the conditions, or any of them, in the said recognisance mentioned, shall not have been complied with, the justice or justices who shall have taken the same, or any other justice or justices, shall certify upon the back of the recognisance in what respect the conditions thereof have not been observed, and transmit the same to the clerk of the peace of the county, riding, division, liberty, city, borough, or place within which such recognisance shall have been taken, to be proceeded upon in like manner as other recognisances forfeited at quarter sessions may now by law be enforced, and such certificate shall be deemed sufficient primâ facie evidence of the said recognisance having been forfeited: provided, that where any such recognisances shall have been taken in England before a magistrate of the police courts of the metropolis, or by any stipendiary magistrate, all sums of money in which any person or persons shall be therein bound may, if the said magistrate shall think fit, be levied, upon such recognisance being forfeited, and on non-payment thereof, together with the costs of the proceedings to enforce such payment, in the same manner as a police magistrate of the metropolis is now empowered to recover any penalty, forfeiture, or sum of money, by sect. 45 of an act passed in the 2 & 3 Vict. [c. 71], intituled "An Act for regulating the Police Courts in the Metropolis," and that all and every the provisions and enactments contained in the said sect. 45 shall extend to and be applicable to this act, in as ample a manner as if they had been herein re-enacted and made part of the same.

14. Any person who shall appeal, under the provisions of this act, against any determination of a justice or justices of the peace from which he is by law entitled to appeal to the quarter sessions, shall be taken to have abandoned such last-mentioned right of appeal, finally and conclusively, and to all intents and purposes.

15. This act shall not extend to Scotland.

SCHEDULE (A.)

Fees to be taken by Clerks to Justices.

	s.	d.
For drawing case and copy, where the case does not exceed five folios of ninety words each	10	0
Where the case exceeds five folios, then for every additional folio	1	0
For the recognisance to be taken in pursuance of the act	5	0
For every enlargement or renewal thereof	2	6
For certificate of refusal of case	2	6

CAP. XLIV.

An Act to regulate the Institution of Suits at the Instance of the Crown and the Public Departments in the Courts of Scotland. [17th August, 1857.]

Sect. 1. *Crown suits, &c. may be brought in the name of the Lord Advocate.*
2. *With the sanction of the department having the interest.*
3. *Persons prosecuted not entitled to object to the instance.*
4. *Meaning of "public department."*
5. *Existing actions, &c. not to be affected.*
6. *Laws, &c. repealed so as to give effect to this act.*

Whereas doubts are entertained as to the proper instance to be employed in the institution of actions, suits, and proceedings in the courts of justice in Scotland on the behalf of her Majesty and of public departments: be it enacted &c. as follows:—

Sect. 1. Every action, suit, or proceeding to be instituted in Scotland on the behalf of or against her Majesty, her heirs and successors, or in the interest of the Crown, or on the behalf of or against any public department, may be lawfully raised in the name and at the instance of, or directed against, her Majesty's Advocate for the time being, as acting under this act.

2. Provided always, that before instituting or defending any such action, suit, or proceeding, her Majesty's Advocate shall have the authority of her Majesty, or of the public department respectively on whose behalf or against whom such action, suit, or proceeding shall be instituted, to the institution or defence thereof.

3. Provided also, that it shall not be competent to any private party, in any action, suit, or proceeding instituted as aforesaid, to challenge or impugn the instance of or the title to defend such action, suit, or proceeding, or the right or title of her Majesty's Advocate to raise and prosecute or to defend the same, upon any allegation that such authority (as aforesaid) has not been granted, or that evidence of such authority is not produced.

4. The expression "public department" shall include the Commissioners of her Majesty's Treasury, the War Department, the Post-office, the Board of Inland Revenue, the Board of Customs, the Commissioners of her Majesty's Woods and Forests, the Commissioners of Works and Public Buildings, the Committee of her Majesty's Privy Council appointed for the Consideration of Matters relating to Trade and Foreign Plantations, and all the like public departments, bodies, or boards, and all and every officer and officers, person and persons acting on the behalf or in the interest of, or entitled at the date of the passing of this act to sue on the behalf or in the interest of, any such public department.

5. Nothing in this act contained shall affect the instance or defence of any action, suit, or proceeding instituted or that may be instituted in conformity with the law as existing at the date of the passing of this act; and no action, suit, or proceeding raised or to be raised at the instance of or against her Majesty's Advocate for the time being shall abate or be affected by any change in the person holding the office of her Majesty's Advocate.

6. All laws, statutes, and usages are hereby repealed, so far as necessary to give effect to this statute, but no further or otherwise.

CAP. XLV.

An Act to make further Provision for defining the Boundaries of certain Denominations of Land in Ireland for public Purposes. [17th August, 1857.]

Sect. 1. *The boundary surveyor may alter the boundary of lands erroneously marked out, with the consent of owners.*
2. *Boundary surveyor may define and mark out boundaries of land reclaimed from the sea, &c.*
3. *Boundary surveyor may define boundaries of baronies divided under the 6 & 7 Will. 4, c. 116.*
4. *Boundary surveyor may define boundaries of parishes divided under the 3 & 4 Will. 4, c. 37.*
5. *The 17 & 18 Vict. c. 17, and this act to be as one act.*

Whereas an act was passed in the 6 Geo. 4, c. 99, to make provision for defining the boundaries of certain denominations of land in Ireland; and another act was passed in the 17 & 18 Vict. c. 17, to provide for the revision of such boundaries: and whereas it is expedient to make further provision for defining such boundaries for the purpose of the revision of the Ordnance survey, and for other public purposes: be it therefore enacted &c. as follows:—

Sect. 1. When the boundary surveyor for the time being shall find that the boundaries of any land have been erroneously marked out, laid down, or described on the Ordnance map of any county, he may make such alteration therein as the circumstances of the case shall require; provided that the application be made to him for such alteration by the owner or owners or reputed owners of such land on each side of the boundary in question, accompanied by a plan shewing in detail the original boundaries so erroneously marked out, and those which it is proposed and agreed upon by the said owners to substitute for them.

2. Such boundary surveyor may define and mark out the boundaries of any land that has been reclaimed from the sea, or a tidal river or lake, and make of such land a new townland or townlands, and such new townland or townlands shall be included in and form an integral portion of the county, barony, and parish within which such townland or townlands are locally situate, or on which they abut, or with which they have the greatest length of common boundary, as to such boundary surveyor shall seem fit: provided always, that nothing herein contained shall in any manner affect the title of the Queen's Majesty, her heirs and successors or assigns, or of other the owner or owners thereof, to any land which has been or may hereafter be so reclaimed as aforesaid.

3. Such boundary surveyor may define and mark out the boundaries of any barony or half barony which shall have been divided by the grand jury of any county under the provisions of an act passed in the 6 & 7 Will. 4, c. 116.

4. Such boundary surveyor may define and mark out the boundaries of any parish which shall have been divided under the provisions of an act passed in the 3 & 4 Will. 4, c. 37, and of any adjoining parish to which any lands separated from such first-mentioned parish shall have been united.

5. The said recited act of the 17 & 18 Vict. c. 17, and this act shall be construed together as one act; and all such alterations of boundaries hereby authorised to be made shall be subject to the provisions of the said recited act of the 17 & 18 Vict. with respect to appeals to quarter sessions and the final decision of the Lord Lieutenant.

CAP. XLVI.

An Act to appoint additional Commissioners for executing the Acts for granting a Land Tax and other Rates and Taxes. [17th August, 1857.]

CAP. XLVII.

An Act to enable Ecclesiastical Persons in Ireland to grant Building Leases of Glebe Lands in certain Cases. [17th August, 1857.]

Sect. 1. *Short title.*
2. *Interpretation of certain terms.*
3. *Power to ecclesiastical persons to grant building leases.*
4. *The best improved rent without fine to be reserved in leases under this act.*
5. *Restrictions on leasing lands under this act.*
6. *Before lease granted, a surveyor to make maps and a valuation, and report respecting such lease. Such map, &c. to be verified by surveyor. Existing maps may be used.*
7. *As to covenants to be contained in leases made under this act.*
8. *Execution by lord lieutenant, archbishop, bishop, and patron to be evidence that the lands are proper to be leased.*
9. *When patron is under incapacity or beyond seas.*
10. *As to consent when the patronage is in the Crown; when in a corporate body.*
11. *Person who for the time being would be entitled to present shall be considered the patron.*
12. *Lease to be by indenture.*
13. *To extend to Ireland only.*

Whereas it would be for the public advantage that ecclesiastical persons in Ireland should be empowered in certain cases to demise a portion of their glebe lands for building purposes: be it therefore enacted &c. as follows:—

Sect. 1. In citing this act for any purpose it shall be sufficient to use the expression "The Glebe Lands Leasing Powers (Ireland) Act, 1857."

2. In the construction of this act the words "lord lieutenant" shall include any chief governor or governors of Ireland; the words "successors in estate" shall mean the persons entitled for the time being, after the lessor, to the receipt of the rents of the lands comprised in any lease made under this act; the word "lessee" shall include the personal representative of any lessee and his lawful assigns; the word "lessor" shall include the successors in estate of any lessor; the words "ecclesiastical person" shall include archbishops, bishops, and all other ecclesiastical corporations, sole or aggregate; the word "town" shall mean any borough or town corporate in Ireland, and any town in which a board of municipal commissioners shall have been elected under the provisions of an act of the 3 & 4 Vict. c. 108, or in which town commissioners shall have been appointed under the provisions of an act of the 9 Geo. 4, c. 82, or an act of the 17 & 18 Vict. c. 103, or any act amending the same.

3. It shall be lawful for any ecclesiastical person in Ireland entitled to any glebe lands situate within the limits of any city or town in Ireland, or within two miles thereof, from time to time to make leases of any part of such lands for building thereon, either together or in parcels, for any term of years not exceeding ninety-nine years, to take effect in possession, and not in reversion, or by way of future interest, subject to the provisions in this act contained.

4. The rent reserved in any such lease shall be the best improved yearly rent that, at the time of making such lease, can be obtained or reasonably expected from a solvent tenant, without taking any fine or other consideration of any kind, and so that no such lessee be made dispunishable for waste: provided always, that it shall be lawful to reserve a reduced rent for the first three years of the term.

5. No such lease shall include the glebe-house, mansion-house, or place of residence of any ecclesiastical person, or the demesne, lands, garden, or pleasure grounds and appurtenances belonging to or usually occupied therewith, or which may be necessary or convenient for actual occupation with such glebe-house, mansion-house, or place of residence; and where there is no house or place of residence on such glebe lands, no such lease shall include any portion of the glebe lands that may be required or suitable for the erection of a glebe-house or place of residence thereon, unless the consent written on or annexed to such lease shall specify that a sufficient quantity of land required and suitable for the erection of a glebe-house or place of residence remains undemised in the hands of such ecclesiastical person; and provided also, that no lease made under this act by any archbishop shall be valid without the consent of the lord lieutenant, or by any bishop without the consent of the archbishop of his province, or by any other ecclesiastical person without the consent of the archbishop of the province, the bishop of the diocese, and of the patron of such benefice, and such consents shall be testified by the persons whose consents are hereby required respectively being parties to and signing and sealing such leases, or signing a written indorsement of such consent thereon.

6. Whenever any lease is intended to be made under the authority of this act, a map or plan under actual survey of the

lands proposed to be leased shall be made by a competent land surveyor, to be appointed by the person desirous of making the lease, shewing the local situation and quantity of the lands proposed to be leased, and of the lands intended to be reserved; and such surveyor shall also make a valuation, on actual survey, of the lands proposed to be leased, and shall report what is the best yearly rent which ought to be reserved on a lease of such lands, and shall also report upon all such other matters connected with such intended lease as he shall be directed to report upon; and the map or plan, certificate, valuation, and report shall be respectively signed by such surveyor, and verified by his declaration to be made before any justice of the peace: provided always, that when there shall be any existing map or plan, made under actual survey of the district, which shall include the lands intended to be demised, a copy of or extract from such map or plan may be substituted for the map or plan hereinbefore directed to be made.

7. Every lease made under this act shall contain a covenant that the tenant shall pay the rent reserved, and all taxes and impositions whatsoever which shall be payable in respect of the lands thereby demised, save the landlord's proportion of poor rates, and also a condition and agreement on the part of the lessee to erect in a permanent and substantial manner on the demised premises buildings of a value to be specified therein, and to keep such buildings during the term in good and substantial repair, and insured against damage by fire in three-fourths at least of the value thereof, and also that the lessee will lay out the money to be received on any such insurance, and all such other sums of money as shall be necessary, in substantially reinstating such buildings as shall be destroyed or damaged by fire, and to give up peaceable possession of the lands so demised, with all buildings, fixtures, and improvements therein, on the determination of such lease; and also every such lease shall contain a power of re-entry in case such buildings shall not have been erected within five years from the commencement of the said lease: provided also, that nothing herein contained shall be construed to preclude the lessor in any such lease from covenanting that the lessee may take from off the demised premises brick, earth, stone, lime, or other materials for the erection or repair of the said buildings, or the construction or repair of drains connected therewith, or that he may use such portion of the demised premises as shall be limited in such lease for the purpose of laying out new streets or approaches to such buildings, or for making any drainage necessary for such buildings.

8. The consent of the lord lieutenant, archbishop, bishop, and patron, whose consents are hereby made requisite to any lease testified in manner hereinbefore described, shall be conclusive evidence that such lease does not comprise any lands which ought not to be leased under the provisions of this act, and that a proper portion of the glebe land remains unleased, and that the rent thereby reserved is the best and most improved rent, and that the conditions required by this act have been duly observed.

9. Whenever the patron shall happen to be a minor, idiot, lunatic, or feme covert, it shall be lawful for the guardian, committee of the estate, or husband (as the case may be) of such patron (but in the case of a feme covert, not being a minor, idiot, or lunatic, with her consent in writing) to execute the instrument by which such consent is to be testified, in testimony of the consent of such patron, and such execution shall, for the purposes of this act, be deemed and taken to be an execution by the patron of the benefice.

10. Whenever the patronage shall be in the Crown, the consent of the Crown shall be testified by the signing of such consent by the lord lieutenant; and whenever the patronage shall belong to any dean and chapter, or collegiate or other corporate body having a common seal, the consent of such corporate body shall be testified by the sealing of the instrument by which such consent is testified with the common seal of such corporate body.

11. The person or persons, (if not more than two), or the majority of the persons, (if more than two), or the corporation who or which would for the time being be entitled to the turn or right of presentation to any benefice if the same were then vacant, shall, for the purposes of this act, be considered to be the patron thereof: provided nevertheless, that in the case of the patronage being exercised alternately by different patrons, the person or persons, (if not more than two), or the majority of the persons, (if more than two), or the corporation, who or which would for the time being be entitled to the second turn or right of presentation to any benefice if the same were then vacant, shall, for the purposes of this act, jointly with the person or persons or corporation entitled to the first turn or right of presentation, be considered to be the patron thereof.

12. Every lease made pursuant to the provisions of this act shall be by indenture, and a counterpart of every such lease shall be executed by the lessee thereof, and shall be valid and effectual to bind the lessor and his successors, provided that the same shall within six months from the execution thereof by the lessor be inrolled in the Rolls Office of the High Court of Chancery in Ireland, for which no greater fee than 10*s.* shall be chargeable.

13. This act shall extend to Ireland only.

CAP. XLVIII.

An Act to make better Provision for the Care and Education of vagrant, destitute, and disorderly Children, and for the Extension of Industrial Schools. [17th August, 1857.]

Sect. 1. *Short title.*
2. *Interpretation of terms.*
3. *Committee of Privy Council on Education may certify any industrial school under this act, but not under this act and the* 17 *&* 18 *Vict. c.* 86.
4. *Inspector to report annually. Certificate may be withdrawn.*
5. *Children taken into custody for vagrancy may be sent to school while inquiries are made.*
6. *Justice may order child to be discharged, or sent to a certified industrial school, or make parent responsible.*
7. *Parent liable to penalty for neglect during responsibility.*
8. *Time passed in industrial school to be excluded in computation of time under the* 9 *&* 10 *Vict. c.* 66.
9. *Parent may (under conditions) have child sent to a school which he approves.*
10. *Book to be kept in which religious denomination of children to be entered; certain hours to be fixed for visits of clergymen.*
11. *Duplicate of order to be given to managers to be sufficient for detention of child.*
12. *On application of parent, &c., child may be discharged from school.*
13. *Child may be discharged on good security being found.*
14. *Child not to be detained beyond the age of fifteen.*
15. *On application of manager the parent may be summoned, and ordered to pay according to his ability.*
16. *Parent's payment may be diminished or increased.*
17. *Power to managers to permit children to sleep out of school.*
18. *Children absconding &c. may be sent back to the school.*
19. *Penalties on persons inducing children to abscond &c., or harbouring them.*
20. *Service of notices.*
21. *Guardians may contract with managers.*
22. *What is sufficient evidence as to certificate of school, identity of child, and making of orders.*
23. *Committee of Education to give notice of certified schools.*
24. *Forms in schedule may be used.*
25. *Extent of act.*

Whereas industrial schools for the better training of vagrant children have been and may be established in various parts of England, and it is expedient that more extensive use should be made of such institutions, and that the responsibility of parents to provide for the proper care of their children should be enforced: be it enacted &c. as follows:—

Sect. 1. This act may be cited as "The Industrial Schools Act, 1857."

2. The following words and expressions shall have the meanings hereby assigned to them respectively, unless there be something in the subject or context repugnant to such construction—

"Police" shall include every policeman, police constable, parish constable, tythingman, or headborough:

"Justices" shall include any two or more justices of the peace acting together, and also any person who by the act of the 11 & 12 Vict. c. 43, ss. 33, 34, is authorised to do alone whatsoever is authorised by that act to be done by any two or more justices of the peace :

"Child" shall include any boy or girl who in the opinion of the justices is above the age of seven and under the age of fourteen :

"Certified industrial school" shall mean any school or institution certified under this act :

"Managers" shall include the directors, managers, or other persons who shall have the management or control of any certified industrial school :

"Parent" shall include any person legally liable to maintain a child, and also any person upon whom an order for affiliation has been made and not quashed :

"County" shall include any city, borough, riding, or division of a county having a separate commission of the peace.

3. The Committee of her Majesty's Privy Council on Education may, upon the application of the managers of any school in which industrial training is provided, and in which children are fed as well as taught, direct such person as they may appoint to examine and report to them upon its condition and regulations, and if satisfied therewith may grant a certificate under the hand of the president of her Majesty's Privy Council, or of the vice-president of the said committee thereof, and thenceforth the school shall be a certified industrial school within the meaning of this act: provided always, that no school shall be certified both under this act and under the act of the 17 & 18 Vict. c. 86.

4. The said committee shall direct a report of the condition and regulations of every certified industrial school to be made to them at least once in each year by such person as they may appoint; and if upon his report the committee is dissatisfied with the condition or regulations of the school, they may withdraw their certificate, and upon notice in writing of such withdrawal having been given to the managers thereof, the school shall cease to be a certified industrial school from such time as shall be specified in the notice.

5. When any child is taken into custody on a charge of vagrancy under any local or general act, the justices, on receiving satisfactory proof in support of such charge, may, if the parent, or in case of an orphan, if the guardian or nearest adult relative, of the child cannot at once be found, and provided there be any certified industrial school the managers of which are willing to receive him, order the child to be sent to such industrial school for any period not exceeding one week, and shall direct due inquiries to be made, and notice (Form A.) to be given to the parent or guardian, or nearest adult relative of the child, if any can be found, or to the persons with whom the child is or was last known to have been residing, of the circumstances under which the child has been taken into custody, and that the matter will be inquired into at the time and place mentioned in the notice.

6. At the time and place mentioned in the notice, any justices may make full inquiry into the matter, and may, if they shall think fit, order the child to be discharged altogether, or, if the parent (or where the child is an orphan, then the guardian or nearest adult relative) be found, may, on conviction of such child on such charge as aforesaid, deliver him up to his parent, (or, where the child is an orphan, to the guardian or nearest adult relative as aforesaid), on his giving an assurance in writing (Form B.) that he will be responsible for the good behaviour of the child for any period not exceeding twelve months, and in default of such assurance being given, may, by writing under their hands and seals, (Form C.), order the child to be sent, for such period as they may think necessary for his education and training, to any certified industrial school the managers of which are willing to receive him : provided, however, if within the county where the child was taken into custody, or any adjoining county, there shall be any certified industrial school conducted on the principles of the religious persuasion to which the parent of the child, in the opinion of the justices, shall belong, and the managers of such school shall be willing to receive him, such child shall be sent to such last-mentioned school, and not to any other.

7. If the child, after such assurance as aforesaid being given, be brought up again on a similar charge within the period for which the parent, or, in case of an orphan, the guardian or nearest adult relative, has become responsible for his good behaviour, the justices may inflict a fine upon the parent or guardian or nearest relative as aforesaid, not exceeding 40*s.*, should it be proved, to the satisfaction of the justices, that the last-mentioned act of vagrancy has taken place through the neglect of the parent.

8. The time during which any child shall be lodged in any certified industrial school under this act shall, for all the purposes of the 9 & 10 Vict. c. 66, and of every act incorporated therewith, be excluded in the computation of the time therein mentioned.

9. If the parent, or, in case of an orphan, if the guardian or nearest adult relative, objects to the certified industrial school to which the child has been sent or ordered to be sent, and proposes some other certified industrial school, and proves that the managers of it are willing to receive the child, and, if on any other than religious ground, pays or finds good security to pay any expenses which may be incurred in consequence of his objection, any justice of the county where the child was taken into custody shall order (Form D.) the child to be sent to the certified industrial school proposed by the parent or guardian or nearest adult relative as aforesaid.

10. In every industrial school a book shall be kept by the managers, to which access shall be had at all reasonable hours, in which the religious denomination of the child, when admitted to the industrial school, shall be entered; and it shall be lawful, upon the representation of the parent, or in case of an orphan, then of the guardian or nearest adult relative, of any inmate placed in such industrial school under the provisions of this act, for a minister of the religious persuasion of the inmate of such industrial school, at certain fixed hours of the day, which shall be fixed by the managers for the purpose, to visit such schools for the purpose of affording religious assistance to such inmate, and also for the purpose of instructing such inmate in the principles of his religion.

11. A duplicate of the order under which any child is, in pursuance of this act, ordered to be sent to a certified industrial school shall be sent to the managers thereof, and shall be a sufficient warrant for the detention of the child.

12. On the application of the parent, or in case of an orphan, then of the guardian or nearest adult relative, or of the managers, any justices of the county in which the school is situate, or of the county where such parent resides, if satisfied that a suitable employment in life has been provided for the child, or that there is otherwise sufficient cause, may discharge (Form E.) the child from the certified industrial school before the full expiration of the period for which he has been sent there, or may order his removal from one certified industrial school to another, (Form F.), or may order him to be discharged altogether.

13. On good security being at any time found by the parent or by any other person, any justices of the county in which the certified industrial school to which the child has been sent is situate, or of the county where such parent resides, shall order (Form G.) the child to be discharged therefrom : provided always, that the security shall be in such amount as the justices determine, or may be rejected by them altogether, on its being proved to their satisfaction that security for the child has at any time, and under any circumstances, been previously rejected or forfeited.

14. No person shall be detained in any certified industrial school under this act beyond the age of fifteen years, against his consent.

15. Any justices of the county in which the certified industrial school to which the child has been sent is situate, or in which the parent is residing, may, upon the complaint of the managers, summon the parent, and examine into his circumstances, and in their discretion may order him (Form H.) to pay to such managers, or to any person authorised by them from time to time to receive it, a weekly sum, not exceeding 3*s.*, until the child attains the age of fifteen years, or is lawfully discharged; and on default of payment for the space of fourteen days, the like proceedings may be taken for enforcing and recovering the same as are hereinafter provided for the enforcing and recovering of any penalty or forfeiture imposed by this act.

16. The parent or the managers may at any time apply to any justices of the county in which the certified industrial school is situate, or in which the parent is residing, for an order to diminish the amount of the weekly sum payable by the parent, or to increase it to an amount not exceeding 3*s.* per week; and the justices, on proof that the parent or the managers have given to each other (as the case may be) not less than

one week's notice in writing of the intended application, and of the time and place of hearing the same, shall make full inquiry into the matter, and may diminish or increase the amount of the weekly sum payable by the parent, as they think fit, or may release him from such payment altogether. (Forms I. and K.)

17. The managers may, at their discretion, permit any child to sleep or lodge at the dwelling of his parent, or of any trustworthy and respectable person, and may also, at their discretion, revoke such permission: provided always, that they shall continue to board and feed the child in all respects as if he were lodging in the certified industrial school.

18. If any child, whether lodging in the school or elsewhere, before attaining the age of fifteen years, or being duly discharged, wilfully absconds from the school, or neglects his attendance thereat, any justice of the county in which the certified industrial school is situate, or in which the child is retaken, may, by writing under his hand and seal, order him to be sent back to the school, and to be detained there until he attains the age of fifteen years, or for such shorter period as the justices think fit.

19. Any person who directly or indirectly withdraws a child from the certified industrial school to which he has been sent, or induces him to abscond therefrom, previous to his attaining the age of fifteen years or being duly discharged, or who knowingly conceals or harbours him, or in any way prevents his return, shall for every such offence be liable in a penalty not exceeding 2*l.*, to be recovered by summary proceedings before two justices in or near the place where the offence is committed, or where the offender may at the time being happen to be, in manner provided by the act of the session holden in the 11 & 12 Vict. c. 43.

20. The leaving of any summons or notice or order, authorised to be issued or made by any justices under this act, at the usual or last known place of abode of the party to whom the same respectively is directed, shall in every case be deemed a good and sufficient service thereof.

21. The guardians of any union or any parish wherein the relief to the poor is administered by a board of guardians may, if they deem proper, with consent of the Poor-law Board, contract with the managers of any certified industrial school for the maintenance and education of any pauper child.

22. Whenever it shall be necessary to prove that any industrial school is duly certified or sanctioned under this act, the production of an attested copy of the certificate shall be sufficient evidence thereof; and the production of an original duplicate of the order under which any child has been sent to or is detained in any certified industrial school under this act, or a copy of such order with a memorandum signed by the manager or superintendent, or master or matron of any such school, that the young person named in such order was duly received into and is at the signing thereof detained in such school, or has been otherwise disposed of according to law, and the production of an original duplicate of any order made upon the parent under this act, or a copy thereof certified by the clerk to the justices making the same to be a correct copy, shall in all proceedings whatsoever be sufficient evidence of the due making and signing of all or any of such orders, memorandum, and certificate respectively, and of the sending, detention, and identity of the child or parent named in such orders respectively, without proof of the signatures or official characters of the justices or other persons appearing to have signed the same respectively.

23. Whenever the Committee of her Majesty's Privy Council on Education shall at any time grant a certificate under this act to any industrial school, they shall within one calendar month cause a notice thereof to be published in the London Gazette, and such publication shall be a sufficient evidence of the fact of such industrial school having been certified to justify any justices to commit any child thereto, subject to the provisions of this act; and whenever the committee shall withdraw the certificate granted to any industrial school, they shall within one calendar month give notice of such withdrawal in the said Gazette.

24. The several forms in the schedule to this act annexed, or any forms to the like effect, shall in all cases be sufficient: provided always, that any summons, notice, or order shall not be invalidated for want of form only.

25. This act shall not extend to Ireland or Scotland.

SCHEDULES.

(A.)

Notice by Police to Parent, &c. of Child being in Custody, &c.

To C. B., of the parish of ——, in the county of ——.

I hereby give you notice, pursuant to sect. 5 of the Industrial Schools Act, 1857, that a child named A. B., apparently about —— years of age, the son of [*or*, who has been residing with] you, the said C. B., has been taken into custody for having been, on the —— day of ——, in the parish of ——, in the said county of ——, found [*in the words of the local or general act*], and that the matter will be inquired into on ——, the —— day of ——, at —— o'clock in the forenoon, at ——, before such justices of the peace for the said county as may then be there, who may make such order on you, the said C. B., to be dealt with according to the said act, as they may think fit; the said A. B. is in the meantime detained in the ——, at ——, by the order of a justice of the peace.

Dated this —— day of ——, 185—.

M. N., { Constable, inspector, or superintendent of police of ——.

(B.)

Form of Assurance of Parent for good Behaviour of Child.

Whereas a child named A. B., the son of C. D., has been proved a vagrant; I, C. D., hereby undertake to be responsible for the good behaviour of the said child for the period of —— months from the day of the date thereof.

(C.)

Order sending Child to Industrial School.

—— } To the constable of ——, and to the managers of
to wit. } the —— Certified Industrial School at ——.

Whereas a certain child named A. B., about —— years of age, was this day brought before us, two of her Majesty's justices of the peace for the county of ——, for that he, on the —— day of ——, at ——, was found in the act of vagrancy, [*or, as the case may be, in sect.* 5]: and whereas we have made full inquiry into the matter, pursuant to the Industrial Schools Act, 1857, and no satisfactory assurance has been given for the future proper care and good behaviour of the said child: now therefore we, the said justices, do, pursuant to sect. 6 of the said act, order you, the said constable, to take the said child, and him safely convey to the —— Certified Industrial School at —— aforesaid, and there to deliver him, together with this order; and we do hereby command you, the said managers, (it appearing to us that you are willing to receive him therein), to receive the said child into your charge in the said school, and there to detain, educate, and train him for the period of —— from the date hereof.

Given under our hands and seals this —— day of ——, at ——, in the county aforesaid.

[*Signatures and seals of justices.*]

(D.)

Second Order changing School.

To the managers of the —— Certified Industrial School at ——, and to the managers of the —— Certified Industrial School at ——.

Whereas a certain child named A. B., about —— years of age, was on the —— day of ——, by the order of ——, two of her Majesty's justices of the peace for the county of ——, pursuant to the Industrial Schools Act, 1857, taken to the —— Certified Industrial School at ——, there to be detained for the period of —— from the said —— day of ——, and he is now detained therein, [*if so*]: and whereas C. B., according to the provisions of the said act entitled to object, has objected to the said school, and has proposed the —— Certified Industrial School at ——, and proved to me, the undersigned, one of her Majesty's justices of the peace for the county of ——, where the child was taken into custody, that the managers of the —— Certified Industrial School at —— are willing to receive the said child, and the said C. D. has also complied with the other conditions of sect. 9 of the said act: these are, therefore, pursuant to sect. 9 of the said act, to order you, the said managers of the —— Certified Industrial School at ——, to deliver up the said child forthwith to the —— Certified Industrial School at ——; and you, the said managers of the said last-mentioned school, are hereby required to receive the said child into your charge in the said school, and there to detain, educate, and train him for the period of —— from the —— day of ——.

Given under my hand and seal this —— day of ——, at ——, in the county aforesaid.

J. S. (L.S.)

(E.)

Order for Discharge of Child on Employment being found for him.

To the managers of the —— Certified Industrial School at ——.

Whereas a certain child named A. B., about —— years of age, was on the —— day of ——, by the order of ——, two of her Majesty's justices of the peace for the county of ——, made pursuant to the Industrial Schools Act, 1857, taken to the —— Certified Industrial School at ——, there to be detained for the period of —— from the said —— day of ——, and he is now detained therein*: and whereas it appears to us, two of her Majesty's justices of the peace for the county of ——, in which the school is situate, [*or*, in which the parent or guardian or nearest adult relative of the said child resides], that suitable employment in life has been provided for the said child, [*or*, there appears to us, &c. sufficient cause for the discharge of the said child]: these are, therefore, pursuant to sect. 12 of the said act, to command you, the said managers, forthwith to discharge the said child, and to deliver him into the charge of ——, who brings this order.

Given under our hands and seals this —— day of ——, at ——, in the county aforesaid.

[*Signatures and seals of justices.*]

(F.)

Order changing School on Assurance being given for future good Behaviour.

To the managers of the —— Certified Industrial School at ——, and to the managers of the —— Certified Industrial School at ——.

[*Proceed to the asterisk * in the Form (E.), and then say*]: And whereas it appears to us desirable that the said child should be removed from the said —— Certified Industrial School to the said —— Certified Industrial School, (the managers of which said last-mentioned school being willing to receive the said child therein): these are, therefore, pursuant to sect. 12 of the said act, to order you, the said managers of the —— Certified Industrial School at ——, to deliver up the said child forthwith to the —— Certified Industrial School, or to any person authorised by them to receive the child at ——; and you, the said managers of the said last-mentioned school, are hereby required to receive the said child into your charge in the said school, and there to detain, educate, and train him for the period of —— from the —— day of ——.

Given under our hands and seals this —— day of ——, at ——, in the county aforesaid.

[*Justices' signatures and seals.*]

(G.)

Order for Discharge of Child on Security given for future good Behaviour.

[*Proceed to the asterisk * in the Form (E.), and then say*]: And whereas good security has been found before us, two of her Majesty's justices of the peace for the county of ——, in which the school is situate, [*or*, in which the parent or guardian or nearest adult relative of the said child resides], for the future good behaviour of the said child*: these are, therefore, pursuant to sect. 13 of the said act, to command you, the said managers, forthwith to discharge the said child, and to deliver him into the charge of ——, who brings this order.

Given under our hands and seals this —— day of ——, at ——, in the county aforesaid.

[*Signatures and seals of justices.*]

(H.)

Order on Parent to pay weekly Sum to Managers of School.

To C. B., of ——, in the county of ——, carpenter.

Be it remembered, that on this —— day of ——, in the year of our Lord 185–, at ——, in the county of ——, a certain complaint of E. F., one of the managers of the —— Certified Industrial School at ——, made under sect. 14 of the Industrial Schools Act, 1857, for that by a certain order of justices, bearing date the —— day of ——, a certain child named A. B., of the age of —— years, was sent to, and is now detained in, the said Certified Industrial School pursuant to the said act, and that the said child is the son of the said C. B., [*or*, was, at the time of his removal to the said school, residing with the said C. B.], was duly heard by and before us, the undersigned, two of her Majesty's justices of the peace in and for the said county of ——, (wherein the said school is situate, *or*, wherein the said C. B. is residing), in the presence and hearing of the said C. B., [*if so, or*, the said C. B. not appearing to the summons duly issued and served in this behalf]; and we, having duly examined into the circumstances of the said C. B., do, pursuant to sect. 14 of the said act, order the said C. B., weekly and every week, from the —— day of ——, to pay to the managers of the said Certified Industrial School, or to such person as the said managers may from time to time authorise to receive the same, the sum of —— shillings for the maintenance, clothing, education, care, and training of the said child, until the said child shall attain the age of fifteen years, or shall be lawfully discharged from the said school.

Given under our hands and seals this —— day of ——, at ——, in the county aforesaid.

[*Justices' signatures and seals.*]

(I.)

Order diminishing or increasing weekly Payment by Parent.

To C. B., of ——, and to the managers of the —— Certified Industrial School at ——.

Whereas, by a certain order of [us, the undersigned, *if so*], two of her Majesty's justices of the peace for the county of ——, made on the —— day of ——, pursuant to sect. 14 of the Industrial Schools Act, 1857, [we], the said justices, ordered that you, the said C. B., should weekly and every week pay to the managers of the said school the sum of —— for the maintenance, clothing, education, care, and training of a certain child named A. B., (who is the son of [*or*, who had been residing with] you, the said C. B.), and who had been theretofore duly sent to, and was then and now is detained in, the said Certified Industrial School for the period therein mentioned*: now therefore we, the said justices, seeing cause to diminish [*or*, increase] the amount of the said weekly payment, do order, pursuant to sect. 15 of the said act, that the said weekly payment to be made by you, the said C. B., to you, the said managers, shall, from the —— day of ——, be the sum of —— per week, and no more.

Given under our hands and seals this —— day of ——, at ——, in the county aforesaid.

[*Justices' signatures and seals.*]

(K.)

Order releasing Parent from Payment altogether.

[*Proceed as in Form (I.) to the asterisk *, and then say*:] Now therefore we, the said justices, seeing cause to release the said C. B. from the said weekly payment altogether, do order, pursuant to sect. 15 of the said act, that you, the said C. B., shall be released altogether from the payment of the aforesaid weekly sum to the said managers from the —— of ——.

Given under our hands and seals this —— day of ——, at ——, in the county aforesaid.

[*Justices' signatures and seals.*]

CAP. XLIX.

An Act to amend the Law relating to Banking Companies. [17th August, 1857.]

Sect. 1. *Short title.*
2. *Joint-stock Companies Acts to be incorporated with this act.*

3. *Sect.* 2 *of the* 19 *&* 20 *Vict. c.* 47, *repealed.*
4. *Banking companies required to register under this act.*
5. *Penalty on neglect to register.*
6. *Banking companies permitted to register under this act.*
7. *Existing companies not to pay fees.*
8. *Registration under this act not to affect obligations incurred previously to registration.*
9. *Saving of liabilities of persons holding shares before registration under this act.*
10. *Continuation of existing actions and suits.*
11. *Certain acts not to apply to companies registered under this act or acts incorporated herewith.*
12. *The* 7 *&* 8 *Vict. c.* 113, *and the* 9 *&* 10 *Vict. c.* 75, *repealed.*
13. *New banking companies.*
14. *One-third in number and value of shareholders to apply for inspectors.*
15. *Sect.* 19 *of the* 19 *&* 20 *Vict. c.* 47, *not applicable to companies in Scotland.*
16. *Transfer of trust property to company.*
17. *Liability of banking company that is not registered as such.*
18. *Exemption of certain existing banking companies from Joint-stock Companies Acts.*
19. *Not to affect provisions of the* 7 *&* 8 *Vict. c.* 32, *and* 8 *&* 9 *Vict. c.* 38.

Whereas it is expedient to amend the law relating to copartnerships and companies carrying on the business of banking, and hereinafter included under the term "banking companies:" be it enacted &c. as follows:—

Preliminary.

Sect. 1. This act may be cited for all purposes as "The Joint-stock Banking Companies Act, 1857."

2. The Joint-stock Companies Acts, 1856, 1857, shall be deemed to be incorporated with and to form part of this act.

Registration of existing Banking Companies.

3. The 2nd section of the Joint-stock Companies Act, 1856, shall be repealed so far as relates to persons associated together for the purpose of banking, subject to this proviso, that no existing or future banking company shall be registered as a limited company.

4. Every banking company consisting of seven or more persons, and formed under the acts following, or either of them —that is to say,

(1). An act passed in the eighth year of the reign of her present Majesty, c. 113, and intituled "An Act to regulate Joint-stock Banks in England,"

(2). An Act passed in the tenth year of the reign of her present Majesty, c. 75, and intituled "An Act to regulate Joint-stock Banks in Scotland and Ireland,"

shall, on or before the 1st January, 1858, register itself as a company under this act.

5. If any banking company hereby required to register under this act makes default in registering on or before the said 1st January, 1858, then from and after such day, until the day on which such company is registered under this act, the following consequences shall ensue; that is to say—

(1). The company shall be incapable of suing either at law or in equity, but shall not be incapable of being made a defendant to a suit either at law or in equity:

(2). No dividend shall be payable to any shareholder in such company:

(3). Each director or manager of the company shall for each day during which the company is in default incur a penalty of 5*l.*, and such penalty may be recovered by any person, whether a shareholder or not in the company, and be applied by him to his own use:

nevertheless such default shall not render the company so being in default illegal, nor subject it to any penalty or disability, other than as specified in this section.

6. Any banking company, consisting of seven or more persons, having a capital of fixed amount, and divided into shares also of fixed amount, legally carrying on the business of banking previously to the passing of this act, and not being a company hereby required to be registered, may, at any time hereafter, with the assent of a majority of such of its shareholders as may have been present in person, or in cases where proxies are allowed by the regulations of the company, by proxy, at some general meeting summoned for the purpose, register itself as a company other than a limited company under this act, and when so registered all such provisions contained in any act of Parliament, letters-patent, or deed of settlement constituting or regulating the company, as are inconsistent with the Joint-stock Companies Acts, 1856, 1857, or with this act, shall no longer apply to the company so registered; but such registration shall not take away or affect any powers previously enjoyed by such company of banking, issuing notes payable on demand, or of doing any other thing.

7. No fees shall be payable in respect of the registration under this act of any banking company existing at the time of the passing of this act.

8. The registration under this act of any banking company existing at the time of the passing of this act, and hereby required or authorised to be registered, shall not affect or prejudice the liability of such company to have enforced against it, or its right to enforce, any debt or obligation incurred, or any contract entered into by, to, with, or on account of such company, previously to such registration, and all such debts, obligations, and contracts shall be binding on the company when so registered, and the other parties thereto, to the same extent as if such registration had not taken place.

9. Every person who, at or previously to the date of the registration under this act of any banking company hereby required or authorised to be registered, may have held shares in such company, shall, in the event of the same being wound up by the court or voluntarily, be liable to contribute to the assets of the company the same amount that he would, if this act had not been passed, have been liable to pay to the company, or for or on account of any debt of the company in pursuance of any action, suit, judgment, or other legal proceeding that might, if this act had not been passed, have been instituted or enforced against himself or the company.

10. All such actions, suits, and other legal proceedings as may, at the time of the registration under this act of any company hereby required or authorised to be registered, have been commenced by or against such company, or the public officer thereof, may be continued in the same manner as if such registration had not taken place; nevertheless execution shall not issue against the effects of any individual shareholder in or member of such company upon any judgment, decree, or order obtained against such company in any action, suit, or proceeding so commenced as aforesaid; but, in the event of the property and effects of the company being insufficient to satisfy such judgment, decree, or order, an order may be obtained for winding up the company, in manner directed by the Joint-stock Companies Acts, 1856, 1857.

Winding up of the Banking Companies.

11. The following acts—that is to say,

(1). The act of the eleventh year of the reign of her present Majesty, c. 45,

(2). The act of the thirteenth year of the reign of her present Majesty, c. 108,

(3). The act of the eighth year of the reign of her present Majesty, c. 111,

(4). The act of the ninth year of the reign of her present Majesty, c. 98,

shall not apply to companies registered under this act, or under the acts incorporated herewith, or either of them; and all companies so registered shall be wound up in manner directed by the said incorporated acts.

Repeal.

12. The above-mentioned acts—that is to say,

The said act passed in the eighth year of the reign of her present Majesty, c. 113, and

The said act passed in the tenth year of the reign of her present Majesty, c. 75,

shall forthwith be repealed as respects any banking company to be formed hereafter, and shall, from and after such time as any company formed in pursuance of such acts, or either of them, may have registered as a company under this act, but not before, be repealed as respects the company so registered; and the articles of Table B. in the schedule annexed to the Joint-stock Companies Act, 1856, relating to "shares," to 'transmission of shares," and to "forfeiture of shares," and numbered from one to nineteen, both inclusive, shall, from and after such time as last aforesaid, but subject to the power of alteration conferred by the Joint-stock Companies Acts, 1856, 1857, be deemed to be regulations of any company formed in pursuance of the said acts passed in the eighth and tenth years of her present Majesty; nevertheless such repeal shall not affect any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence against any acts hereby repealed committed before such repeal comes into operation; and notwithstanding anything contained in the said act of the 8 Vict. c. 113, or in any other act, it shall be lawful for any number of persons, not exceeding ten, to carry on in partnership the business of banking, in the same manner and upon the same conditions in all respects as any company, if not more than six persons, could before the passing of this act have carried on such business.

Formation of new Banking Companies.

13. Seven or more persons associated for the purpose of banking may register themselves under this act as a company other than a limited company, subject to this condition, that the shares into which the capital of the company is divided shall not be of less amount than 100*l.* each; but not more than ten persons shall after the passing of this act, unless registered as a company under this act, form themselves into a partnership for the purpose of banking, or, if so formed, carry on the business of banking.

Examination of Affairs of Company.

14. No appointment of inspectors to examine into the affairs of any banking company shall be made by the Board of Trade, in pursuance of the Joint-stock Companies Act, 1856, except upon the application of one-third at the least in number and value of the shareholders in such company.

Sect. 19 *of Joint-stock Companies Act not to apply.*

15. The 19th section of the Joint-stock Companies Act, 1856, shall not apply to any banking company in Scotland registered under this act.

Transfer of Trust Property.

16. All such estate or interest in real and personal property in England and Ireland, and in property, heritable and moveable, in Scotland, and all such deeds, bonds, obligations, and rights as may belong to or be vested in any person or persons in trust for any banking company at the date of its registration under this act, or in trust for any other company at the date of its registration under the Joint-stock Companies Acts, 1856, 1857, shall immediately on registration vest in such banking or other company; but no merger shall take place of any estates by reason of their uniting in the company under this section, without the express consent of the company, certified by some instrument under their common seal.

Banking Companies not registered as such.

17. If, through inadvertence or otherwise, a company that is in fact a banking company has previously to the passing of this act been registered as a limited company under the Joint-stock Companies Act, 1856, or if, through inadvertence or otherwise, a company that is in fact a banking company is hereafter registered under the said Joint-stock Companies Acts, 1856, 1857, as a limited company, any company so registered shall not be illegal, nor shall the registration thereof be invalid, but it shall be subject to the following liabilities; that is to say—

(1). Any creditor or member of the company may petition the court to have it wound up, and the fact of its being registered as a limited company shall of itself be a sufficient circumstance on which an order shall be made for winding up the same:

(2). In the event of such company being wound up the contributories shall, whether the company is or not registered as a limited company, be liable to contribute to the assets of the company to an amount sufficient to pay its debts, and the costs, charges, and expenses of winding up the same.

Saving Clauses.

18. The Joint-stock Companies Acts, 1856, 1857, shall not apply to any banking company legally carrying on the business of banking previously to the passing of this act, and not hereby required to be registered, until such time as such company registers itself under this act, in pursuance of the power hereby given in that behalf.

19. Nothing herein contained shall affect an act passed in the 7 & 8 Vict. [c. 32], intituled "An Act to regulate the Issue of Bank Notes, and for giving to the Governor and Company of the Bank of England certain Privileges for a limited Period," or an act passed in the 8 & 9 Vict. c. 38, intituled "An Act to regulate the Issue of Bank Notes in Scotland," or any other act relating to the issue or circulation of bank notes.

CAP. L.

An Act to amend the Acts concerning Municipal Corporations in England. [17th August, 1857.]

Sect. 1. *Sect.* 75 *of the* 5 *&* 6 *Will.* 4, *c.* 76, *repealed.*
2. *Powers, property, and liabilities of trustees for paving &c. may be, on the grant of a charter of incorporation under the* 5 *&* 6 *Will.* 4, *c.* 76, *transferred to the body corporate of the borough.*
3. *No transfer to be made without a resolution of the borough council.*
4. *Confirmation of transfers under the* 5 *&* 6 *Will.* 4, *c.* 76, *s.* 75, *of property and liabilities.*
5. *All duties imposed upon town clerks of boroughs, &c. by the act* 3 *Geo.* 4, *c.* 46, *to be performed by the clerks of the peace.*
6. *In boroughs consisting of more than one parish, in case the burgess roll for any parish not made out in any year, previous burgess roll to continue in force for such parish.*
7. *Overseers of the poor to make out burgess roll on or before the first day of September in every year.*
8. *Acts to be construed as one.*

Whereas, by sect. 75 of the act passed in the session holden in the 5 & 6 Will. 4, c. 76, "to provide for the Regulation of Municipal Corporations in England and Wales," it was provided that the trustees appointed under any act of Parliament for paving, lighting, cleansing, watching, regulating, supplying with water, and improving any borough named in one of the Schedules (A.) and (B.) to the act now in recital, or part thereof, might, if it should seem to them expedient, transfer all the powers vested in them as such trustees by any such act to the body corporate of such borough, and the body corporate of such borough should thenceforth be trustee for executing by the council of such borough the several powers and provisions of any such act of Parliament; provided always, that no such transfer should be made of the powers vested by virtue of the acts mentioned in Schedule (E.) to the act now in recital which relate to the town of Cambridge without the consent of the chancellor, masters, and scholars of the University of Cambridge: and whereas doubts have arisen as to the construction of the said section, and it is expedient to amend the same as hereinafter provided: be it therefore enacted &c. as follows:—

Sect. 1. The hereinbefore-recited enactment shall be repealed, save so far as relates to any transfer made thereunder before the passing of this act.

2. The trustees appointed or acting by or under any act of Parliament for paving, lighting, supplying with water or gas, or cleansing, watching, regulating, or improving, or for providing or maintaining a cemetery or market in or for any borough named in one of the said schedules to the said act of the 5 & 6 Will. 4, or to which a charter of incorporation has been since the passing of such act, or shall be hereafter, granted under the provisions of the said act or otherwise, or any part of any such borough, and whether the powers of such trustees under any such act do or do not extend beyond the limits of such borough, may, if it seem to them expedient, at a meeting to be called for that purpose, transfer to the body corporate of such borough all the rights, powers, estates, property, and liabilities of such trustees under any such act as aforesaid, and such transfer shall be made in writing under the common seal of the said trustees, if they be a corporation, or, if not a corporation, then by deed executed by the trustees, or any two of them acting by the authority of and on behalf of all such trustees; and upon any such transfer being so made the body corporate to whom such transfer is made shall become and be trustee for executing by the council of the borough the several powers and provisions of any such act as aforesaid, and all the rights, powers, estates, and property vested in the trustees making such transfer shall vest in such body corporate, and all the liabilities and obligations of the said trustees shall stand

transferred to and be borne by such body corporate, and the said trustees shall be freed and discharged from all such liabilities and obligations; but nothing herein contained shall authorise any such transfer in the case of the town of Cambridge without the consent required by the said recited enactment.

3. Provided always, that no such transfer as aforesaid shall be made or take effect unless and until the council of the borough have resolved, at a meeting of such council holden and convened in manner required by the said act of Will. 4, to accept the same.

4. Where, under the hereinbefore-recited enactment, the trustees under any such act of Parliament as therein mentioned have transferred to the body corporate of any borough the powers vested in such trustees under such act, and the transfer so made purports to extend to the estates and property vested in such trustees, and their liabilities and obligations on any of such matters, the transfer so made shall be deemed to have been authorised by the said enactment.

5. Whereas, by an act passed in the session of Parliament holden in the 3 Geo. 4, c. 46, intituled "An Act for the more speedy Return and levying of Fines, Penalties, and Forfeitures, and Recognisances estreated," certain duties are imposed upon the town clerks of cities, boroughs, or places in England: from and after the passing of this act all duties imposed upon town clerks by such act shall be performed by the clerks of the peace for such cities, boroughs, and places, where the offices of town clerk and clerk of the peace are not united in the same person; and such clerks of the peace are hereby required to make all returns, issue all processes, and do and perform all other acts which are imposed upon town clerks by the said recited act.

6. Whereas, by an act passed in the session holden in the 7 Will. 4 & 1 Vict. c. 78, "to amend an Act for the Regulation of Municipal Corporations in England and Wales," it was enacted, that in every borough in which, by reason of any neglect or informality, a new burgess roll of the said borough shall not have been made in any year within the time directed by the said act for the regulation of municipal corporations, the burgess roll which was in force before the time appointed for the revision shall continue in force until such new burgess roll shall have been duly made: and whereas the said recited enactment applies only to any borough in which a new burgess roll shall not have been made as therein mentioned: and whereas it is expedient to provide as to any borough consisting of more parishes than one wholly or in part within any borough in which a new burgess roll shall have been made out, but in which the burgess list or lists of one or more of such parishes wholly or in part within such borough shall have been omitted: be it enacted, that in every borough, consisting of more parishes than one wholly or in part within such borough, in which, by reason of any neglect or informality, a burgess list of any parish or of parts of any parish within such borough shall not have been made out in any year, or in case such burgess list shall not have been revised as required by the said act for the regulation of municipal corporations, so much of the burgess roll which was in force before the time appointed for the revision as contains the names of the burgesses entitled to vote in respect of property within such parish or part of parish shall continue in force, and be taken to be the list of burgesses entitled to vote in respect of such property until a burgess list for such parish or part of parish shall have been revised and become part of the burgess roll.

7. Whereas, by the 15th section of the act to provide for the regulation of municipal corporations in England and Wales, it was enacted, that on the 5th September in every year the overseers of the poor of every parish wholly or in part within any borough shall make out a list, to be called "the burgess list," according to the provisions therein contained, and shall deliver the same to the town clerk of the borough on the said 5th September in every year, and shall keep a true copy of such lists, to be perused without payment of any fee at all reasonable hours between the 5th and 15th September in every year, and that the town clerk shall forthwith cause copies of all overseers' lists so delivered to him to be printed, and shall cause a copy of all such lists to be published, as therein provided, on every day during the week next preceding the 15th September in every year: and whereas it has been found in populous boroughs that the several matters so required to be done by the town clerk cannot be duly carried into effect within the time so specified in that behalf: be it enacted, that from and after the passing of this act the overseers of the poor of every parish wholly or in part within any borough shall, on or before the 1st September in every year, instead of on the 5th September, make out a list, to be called "the burgess list," according to the provisions in the said recited section contained, and shall, on or before the said 1st September in every year, instead of on the 5th September, deliver the same to the town clerk of the borough, and shall keep a true copy of such lists, to be perused by any person without payment of any fee at all reasonable hours between the 1st and 15th September in every year, instead of between the 5th and 15th September.

8. The said act of Will. 4 and this act shall be construed together as one act.

CAP. LI.

An Act to guarantee a Loan for the Service of New Zealand. [17th August, 1857.]

CAP. LII.

An Act for discharging Claims of the New Zealand Company on the Proceeds of Sales of Waste Lands in New Zealand. [17th August, 1857.]

CAP. LIII.

An Act to amend the act for granting a Representative Constitution to the Colony of New Zealand. [17th August, 1857.]

CAP. LIV.

An Act to make better Provision for the Punishment of Frauds committed by Trustees, Bankers, and other Persons intrusted with Property. [17th August, 1857.]

Sect. 1. *Trustees fraudulently disposing of property guilty of a misdemeanour.*
2. *Bankers, &c. fraudulently selling &c. property intrusted to their care guilty of misdemeanour.*
3. *Persons under powers of attorney fraudulently selling property guilty of misdemeanour.*
4. *Bailees fraudulently converting property to their own use guilty of larceny.*
5. *Directors, &c. of any body corporate or public company fraudulently appropriating property;*
6. *Or keeping fraudulent accounts;*
7. *Or wilfully destroying books, &c.;*
8. *Or publishing fraudulent statements, guilty of misdemeanour.*
9. *Persons receiving property fraudulently disposed of, knowing the same to have been so, guilty of misdemeanour.*
10. *Punishment for a misdemeanour under this act.*
11. *No person exempt from answering questions in any court. Evidence not admissible in prosecutions under this act.*
12. *No remedy at law or in equity shall be affected. Convictions shall not be received in evidence in civil suits.*
13. *No prosecution shall be commenced without the sanction of some judge or the Attorney-General.*
14. *If offence amounts to larceny, person not to be acquitted of a misdemeanour.*
15. *Costs of prosecutions.*
16. *Misdemeanours not triable at sessions.*
17. *Interpretation of certain terms.*
18. *Act not to extend to Scotland.*

Whereas it is expedient to make better provision for the punishment of frauds committed by trustees, bankers, and other persons intrusted with property: be it enacted &c. as follows:—

Sect. 1. If any person, being a trustee of any property for the benefit, either wholly or partially, of some other person, or for any public or charitable purpose, shall, with intent to defraud, convert, or appropriate the same, or any part thereof, to or for his own use or purposes, or shall, with intent aforesaid, otherwise dispose of or destroy such property, or any part thereof, he shall be guilty of a misdemeanour.

2. If any person, being a banker, merchant, broker, attorney, or agent, and being intrusted for safe custody with the property of any other person, shall, with intent to defraud, sell, negotiate, transfer, pledge, or in any manner convert or

appropriate to or for his own use such property, or any part thereof, he shall be guilty of a misdemeanour.

3. If any person intrusted with any power of attorney for the sale or transfer of any property shall fraudulently sell or transfer or otherwise convert such property, or any part thereof, to his own use or benefit, he shall be guilty of a misdemeanour.

4. If any person, being a bailee of any property, shall fraudulently take or convert the same to his own use, or the use of any person other than the owner thereof, although he shall not break bulk, or otherwise determine the bailment, he shall be guilty of larceny.

5. If any person, being a director, member, or public officer of any body corporate or public company, shall fraudulently take or apply for his own use any of the money or other property of such body corporate or public company, he shall be guilty of a misdemeanour.

6. If any person, being a director, public officer, or manager of any body corporate or public company, shall as such receive or possess himself of any of the money or other property of such body corporate or public company otherwise than in payment of a just debt or demand, and shall, with intent to defraud, omit to make, or to cause or direct to be made, a full and true entry thereof in the books and accounts of such body corporate or public company, he shall be guilty of a misdemeanour.

7. If any director, manager, public officer, or member of any body corporate or public company shall, with intent to defraud, destroy, alter, mutilate, or falsify any of the books, papers, writings, or securities belonging to the body corporate or public company of which he is a director or manager, public officer or member, or make or concur in the making of any false entry, or any material omission, in any book of account or other document, he shall be guilty of a misdemeanour.

8. If any director, manager, or public officer of any body corporate or public company shall make, circulate, or publish, or concur in making, circulating, or publishing, any written statement or account which he shall know to be false in any material particular, with intent to deceive or defraud any member, shareholder, or creditor of such body corporate or public company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any money or property to such body corporate or public company, or to enter into any security for the benefit thereof, he shall be guilty of a misdemeanour.

9. If any person shall receive any chattel, money, or valuable security which shall have been so fraudulently disposed of as to render the party disposing thereof guilty of a misdemeanour under any of the provisions of this act, knowing the same to have been so fraudulently disposed of, he shall be guilty of a misdemeanour, and may be indicted and convicted thereof, whether the party guilty of the principal misdemeanour shall or shall not have been previously convicted, or shall or shall not be amenable to justice.

10. Every person found guilty of a misdemeanour under this act shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to suffer such other punishment by imprisonment for not more than two years, with or without hard labour, or by fine, as the court shall award.

11. Nothing in this act contained shall enable or entitle any person to refuse to make a full and complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any court of law or equity, or in the courts of bankruptcy or insolvency; but no answer to any such bill, question, or interrogatory shall be admissible in evidence against such person in any proceeding under this act.

12. Nothing in this act contained, nor any proceeding, conviction, or judgment to be had or taken thereon against any person under this act, shall prevent, lessen, or impeach any remedy at law or in equity which any party aggrieved by any offence against this act might have had if this act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and nothing in this act contained shall affect or prejudice any agreement entered into or security given by any trustee, having for its object the restoration or repayment of any trust property misappropriated.

13. No proceeding or prosecution for any offence included in the 1st section, but not included in any other section of this act, shall be commenced without the sanction of her Majesty's Attorney-General, or, in case that office be vacant, of her Majesty's Solicitor-General: provided, that where any civil proceeding shall have been taken against any person to whom the provisions of the said 1st section, but not of any other section of this act, may apply, no person who shall have taken such civil proceeding shall commence any prosecution under this act without the sanction of the court or judge before whom such civil proceeding shall have been had or shall be pending.

14. If upon the trial of any person under this act it shall appear that the offence proved amounts to larceny, he shall not by reason thereof be entitled to be acquitted of a misdemeanour under this act.

15. In every prosecution for any misdemeanour against this act the court before which any such offence shall be prosecuted or tried may allow the expenses of the prosecution in all respects as in cases of felony.

16. No misdemeanour against this act shall be prosecuted or tried at any court of general or quarter sessions of the peace.

17. The word "trustee" shall in this act mean a trustee on some express trust created by some deed, will, or instrument in writing, and shall also include the heir and personal representative of any such trustee, and also all executors and administrators, liquidators under the Joint-stock Companies Act, 1856, and all assignees in bankruptcy and insolvency:

The word "property" shall include every description of real and personal property, goods, raw or other materials, money, debts, and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods; and such word "property" shall also denote and include not only such real and personal property as may have been the original subject of a trust, but also any real or personal property into which the same may have been converted or exchanged, and the proceeds thereof respectively, and anything acquired by such proceeds.

18. This act shall not extend to Scotland.

CAP. LV.

An Act to promote the Establishment and Extension of Reformatory Schools in England. [25th August, 1857.]

Sect. 1. *Power to justices of a county or council of borough sessions to grant money in aid of reformatory schools.*
2. *Notice of the proposed grant to be given.*
3. *Money granted to be applied in purchase of site, in building, and for like permanent objects.*
4. *No money to be granted to schools already established, unless certified under the* 17 & 18 *Vict. c.* 86. *Plans to be approved by Secretary of State.*
5. *Justices or council may contract with the managers for the reception of offenders from their county or borough.*
6. *Schools may be visited by clergymen of religious persuasion of offenders.*
7. *Monies granted under this act, how to be raised.*
8. *Contribution by parents to the maintenance of offenders in a reformatory school, how to be enforced.*
9. *Proceedings for enforcing contribution may be taken at any time during the detention of the offender.*
10. *Power to remit, reduce, or increase the weekly payments, but not to exceed* 5*s. weekly.*
11. *Payments, how to be made.*
12. *Provisions of the* 18 & 19 *Vict. c.* 87, *in case of default in payment by parents, to be applicable to the purposes of this act.*
13. *Provision for care of juvenile offenders when discharged from reformatory schools.*
14. *Penalty for harbouring any young person absconding from a reformatory.*
15. *Interpretation of terms.*
16. *Act to extend only to England.*

For promoting the establishment and extension of reformatory schools in England, be it enacted &c. as follows:—

Sect. 1. It shall be lawful for the justices of the peace of any county, in general or quarter sessions, or for the council of any borough having a separate court of sessions of the peace, upon the application of the directors or managers of any reformatory school for youthful offenders already established, in whole or in part, by voluntary contributions, or of the promoters of a reformatory school intended to be so established, to make an order for the payment of money in aid of such reformatory school, or of the establishment thereof, subject to such conditions as may be agreed upon between such justices or council and such directors, managers, or promoters.

2. Not less than two months' notice shall be given by the clerk of the peace of such county, in some newspaper or newspapers commonly circulated in such county, of the day on which any motion for such order under this act is to be considered, and the clerk of the peace of the county shall give such notice on the requisition of any five justices acting for such county; and every order by the council of any borough for the payment of money shall be made at a special meeting of such council to be called for that purpose, and notice of such intended resolution shall be given two months before the meeting of the council, by advertisement in some newspaper or newspapers generally circulating within the said borough.

3. The money ordered to be paid under this act in aid of a reformatory school shall be applicable to the following purposes, viz.:—

Towards defraying the expenses of purchasing the site of a school on its first establishment, or the site of any extension or new establishment for the purposes of a school already established, or the expenses of building or fitting up a school on its first establishment, or erecting, altering or enlarging, or fitting up any buildings for the extension or improvement of a school already established; and the justices or council, as the case may be, shall provide for the application of such money accordingly.

4. Provided, that no money shall be ordered to be paid under this act, in aid of any reformatory school established at the time of the grant, unless the institution has been certified by the Secretary of State, under the provisions of the 17 & 18 Vict. c. 86, to be useful and efficient for its purpose; nor shall any money be paid under any such order in aid of any school which shall have been so certified in case such certificate shall have been withdrawn; and in every case where money is ordered to be paid under this act, the plan and particulars of the school intended to be established, or of the extension or new establishment for the purposes of a school already established, (as the case may be), shall, before payment of money under the order, be submitted to and approved of by one of her Majesty's Principal Secretaries of State.

5. It shall be lawful for the justices of the peace of any county in general or quarter sessions, (notice having been given as herein provided in the case of an order for the payment of money), or for the council of any borough having a separate court of sessions of the peace, at a special meeting of such council called for the purpose, to appoint and empower a committee of such justices or council to enter into an agreement with the directors or managers of any reformatory school, certified as aforesaid, for the reception and keeping in such school from time to time of offenders from such county or borough sentenced to be detained in a reformatory school, in consideration of such periodical payments as may be agreed upon with such managers or directors; and such justices or council may direct the payment of the money which may from time to time become payable under such agreement.

6. In every reformatory school aided by a grant of money under this act, or in relation to which any such agreement as last aforesaid shall have been entered into, it shall be lawful, upon the representations of the parent, or in case of an orphan, then of the guardian or nearest adult relative, of any offender detained in any such school, for a minister of the religious persuasion of such offender, at certain fixed hours of the day, which shall be fixed by the managers or directors for the purpose, to visit such school for the purpose of affording religious assistance to such offender, and also for the purpose of instructing such offender in the principles of his religion.

7. All monies ordered to be paid under this act by any justices or council shall be raised and paid in the same manner and subject to the same conditions as monies to be raised by the justices or council respectively for building, rebuilding, or enlarging any gaol under their respective management; and all monies directed to be paid from time to time by any justices or council, in pursuance of any agreement under this act, shall be raised and paid in the same manner as monies to be raised for the ordinary current expenditure of their several gaols.

8. In every case in which any juvenile offender shall be sentenced to be detained in a reformatory school under the said act of the 17 & 18 Vict., or any of the acts amending the same, by any justices of the peace in petty sessions, or by any stipendiary or police magistrate in England and Wales, such justices or magistrate, at the time of passing such sentence, or within fourteen days thereof, may issue a summons calling upon the parent or step-parent of such offender to appear before them or him, and on the hearing of such summons, whether the party summoned shall appear or not, may examine into the ability of such parent or step-parent to contribute to such offender's support and maintenance, and may make an order upon him or her for the payment of such weekly sum (not exceeding 5*s.*) as shall seem reasonable during the whole or any part of the detention of such offender in such reformatory school; and in every case in which such sentence of detention shall be passed by any court of assize or quarter sessions in England and Wales, such court shall direct any officer of the same to certify the said sentence to the next meeting of justices in petty sessions for the district or town from which such offender shall have been committed, (or to any police or stipendiary magistrate of the said district, as the case may be), and such justices or magistrate may proceed to summon the parent or step-parent of such offender, and to make an order upon him or her in manner hereinbefore provided, as if the sentence had been passed by themselves or himself in due course of law.

9. In any case wherein no such order shall have been made as hereinbefore provided, it shall be lawful, at any time during the detention of such juvenile offender, for any two justices of the peace or any police or stipendiary magistrate in England or Wales acting for the county or borough or other jurisdiction within which the parent or step-parent of such offender shall be residing, on the complaint of any person authorised by one of her Majesty's Principal Secretaries of State to take proceedings under the said acts or any of them, to summon such parent or step-parent before them, and to examine into his or her ability, and to make such order for a sum not exceeding 5*s.* per week to be paid by him or her as aforesaid.

10. Provided also, that it shall be lawful for any two justices of the peace or for any police or stipendiary magistrate in England or Wales, from time to time, on the representation of such parent or step-parent, or any person authorised by the Secretary of State to take proceedings as aforesaid, at any time while the first order continues in force, to make further inquiry into the parent's or step-parent's ability, and to remit or lessen the amount of the weekly payment that shall have been previously assessed upon him or her, or to increase the same, if they see cause so to do, so that the amount shall not in any case exceed 5*s.* weekly.

11. All such payments shall be directed by the order to be made to some person to be appointed by one of her Majesty's Principal Secretaries of State to receive such payments within the jurisdiction of the court or justices or police or stipendiary magistrate making such order, or to his agent duly authorised in that behalf, by him to be accounted for and paid over as the Commissioners of her Majesty's Treasury may direct.

12. All the provisions of the act of the session holden in the 18 & 19 Vict. c. 87, which have reference to the case of default being made in the payment of any sum of money which may have become payable by any parent or step-parent under an order made by virtue of that act, shall be applicable in every respect to every case of default in the payment of any sums directed to be paid by any order made under and by virtue of the present act; and so much of sect. 2 of the said act of the 18 & 19 Vict. as is inconsistent with the provisions hereinbefore contained shall be repealed.

13. Whereas it is expedient to make further provision for the due care and protection of juvenile offenders discharged from reformatory schools: it shall be lawful for the managers of any reformatory school, previous to making application for the discharge of any juvenile offender committed to such school, to place such offender on trial with some person, to be named in the license hereinafter, most willing to receive and take charge of him, and to grant to such offender a license under their hands, or the hand of any one of them, to reside with such person for any term not exceeding thirty days, unless sooner called upon by the said managers to return to the said school, and to require such offender to return to the said school

at any time during the same; and such managers shall bring back such offender to the said school at the expiration of the said term, provided that such offender shall not have been previously discharged from the school by order of the Secretary of State; and any offender who shall abscond from such person during such term, or shall refuse to return to the reformatory school at the end of such term, or before the end of the time, when so required, shall be held to have absconded from the school, and shall be liable to the penalties in that case made and provided: provided always, that no such offender shall be so placed out before the expiration of one-half of the term of detention to which he was originally sentenced.

14. Any person who, knowing any young person to have been withdrawn or to have absconded from any such school or institution as aforesaid, shall harbour or conceal or assist in concealing such young person, or prevent him or her from returning to such school or institution, shall be liable to the penalty imposed by an act of the 19 & 20 Vict. c. 109, on any one wilfully withdrawing or inducing any young person to abscond from any such school, to be recovered and applied in manner therein mentioned, and failing payment thereof shall be liable to be imprisoned, as in the said enactment mentioned.

15. In this act the word "county" shall mean and include every riding, part, or division of a county, and every liberty having a separate commission of the peace; and the word "borough" shall include every city or other place mentioned in the schedules to the act of the session holden in the 5 & 6 Will. 4, c. 76, (to provide for the regulation of municipal corporations in England and Wales), or to which a charter of incorporation has since been granted.

16. This act shall extend only to England.

CAP. LVI.

An Act to regulate the Distribution of Business in the Court of Session in Scotland. [25th August, 1857.]

Sect. 1. Power to the Lord President to take measures for promoting dispatch of business.

2. Lord President may order lists to be prepared of causes transferred.

3. Lists to be entered in books of sederunt and published.

4. Summary petitions, &c., how disposed of.

5. Lord Ordinary may consult professional persons, or persons of science or skill.

6. Review of the Lord Ordinary by interlocutor on merits only allowed.

7. Causes may be transferred from the rolls of one division to the other division.

8. Court may remit cause to the Lord Ordinary.

9. Sittings of the court to be extended.

10. Lord Ordinary, on bills during vacation, may dispose of petitions for factors, &c.

CAP. LVII.

An Act to enable Married Women to dispose of Reversionary Interests in Personal Estate. [25th August, 1857.]

Sect. 1. *Married women may dispose of reversionary interests in personal estate, and release powers over such estate, and also their rights to a settlement out of such estate in possession.*

2. *Deeds to be acknowledged by married women in the manner required by the 3 & 4 Will. 4, c. 74, for disposing of interests in or powers over land in England or Wales. In Ireland, as by the 4 & 5 Will. 4, c. 92.*

3. *The powers of disposition given by this act not to interfere with any other powers.*

4. *Act not to extend to settlements of married women upon marriage.*

5. *Not to extend to Scotland.*

Be it enacted &c. as follows:—

Sect. 1. After the 31st December, 1857, it shall be lawful for every married woman by deed to dispose of every future or reversionary interest, whether vested or contingent, of such married woman, or her husband in her right, in any personal estate whatsoever to which she shall be entitled under any instrument made after the said 31st December, 1857, (except such a settlement as after mentioned), and also to release or extinguish any power which may be vested in or limited or reserved to her in regard to any such personal estate, as fully and effectually as she could do if she were a feme sole, and also to release and extinguish her right or equity to a settlement out of any personal estate to which she, or her husband in her right, may be entitled in possession under any such instrument as aforesaid, save and except that no such disposition, release, or extinguishment shall be valid unless the husband concur in the deed by which the same shall be effected, nor unless the deed be acknowledged by her as hereinafter directed: provided always, that nothing herein contained shall extend to any reversionary interest to which she shall become entitled by virtue of any deed, will, or instrument by which she shall be restrained from alienating or affecting the same.

2. Every deed to be executed in England or Wales by a married woman for any of the purposes of this act shall be acknowledged by her, and be otherwise perfected, in the manner in and by the act passed in the 3 & 4 Will. 4, [c. 74], intituled "An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance," prescribed for the acknowledgment and perfecting of deeds disposing of interests of married women in land; and every deed to be executed in Ireland by a married woman for any of the purposes of this act shall be acknowledged by her, and be otherwise perfected, in the manner in and by the act passed in the 4 & 5 Will. 4, [c. 92], intituled "An Act for the Abolition of Fines and Recoveries, and the Substitution of more simple Modes of Assurance, in Ireland," prescribed for the acknowledgment and perfecting of deeds disposing of interests of married woman in land; and all and singular the clauses and provisions in the said acts concerning the disposition of lands by married women, including the provisions for dispensing with the concurrence of the husbands of married women, in the cases in the said acts mentioned, shall extend and be applicable to such interests in personal estate and to such powers as may be disposed of, released, or extinguished by virtue of this act, as fully and effectually as if such interests or powers were interests in or powers over land.

3. Provided always, that the powers of disposition given to a married woman by this act shall not interfere with any power which independently of this act may be vested in or limited or reserved to her, so as to prevent her from exercising such power in any case, except so far as by any disposition made by her under this act she may be prevented from so doing in consequence of such power having been suspended or extinguished by such disposition.

4. Provided always, that the powers of disposition hereby given to a married woman shall not enable her to dispose of any interest in personal estate settled upon her by any settlement or agreement for a settlement made on the occasion of her marriage.

5. This act shall not extend to Scotland.

CAP. LVIII.

An Act to amend the Act 17 & 18 Vict. [c. 91], for the Valuation of Lands in Scotland. [25th August, 1857.]

Sect. 1. Power to commissioners of supply and magistrates to appoint officers of Inland Revenue to be assessors.

2. Persons charged may appeal. Officer of Inland Revenue or appellant, if dissatisfied with decision of commissioners or magistrates, may demand a case for the opinion of the judges.

3. If commissioners or magistrates do not appoint officers of Inland Revenue to be assessors, valuations not to be conclusive against assessments.

4. Town of Maxwelltown to be deemed part of the stewartry of Kirkcudbright for purposes of recited act.

CAP. LIX.

An Act concerning the Parochial Schoolmasters in Scotland. [25th August, 1857.]

Sect. 1. Sheriff or steward to fix average fiars prices of a chalder of oatmeal.

2. Salaries of schoolmasters to be paid according to average amount of fiars prices of oatmeal.

3. When not inconsistent with this act, first-recited act to continue in full force and effect.

CAP. LX.

An Act to consolidate and amend the Laws relating to Bankruptcy and Insolvency in Ireland. [25th August, 1857.]

Sect. 1. Existing courts of bankruptcy and insolvency to be discontinued.
2. Certain acts and parts of acts repealed.
3. Short title.
4. Definition of terms, &c.
5. Commencement of act.
6. Procedure to obtain adjudication, &c. to be under this act.
7. Proceedings in courts discontinued by this act to be carried on in new court.
8. Construction of former acts, &c. as to word "commission."
9. Computation of time.
10. Term expiring on Sunday, &c. extended to following day.

Constitution of the Court, &c.

11. Court of Bankruptcy and Insolvency.
12. Appointment of judges.
13. The oath of office.
14. Judges not to be elected members of the House of Commons.
15. Salary.
16. Matters pending in discontinued courts transferred to new court.
17. Offices of old court abolished, and records, &c. to be transferred to new court.
18. Court to make general orders for transfer of proceedings, &c.
19. The court to be a court of law and equity, &c.
20. Each judge shall form the court.
21. Power to judges to make general orders, to be approved by the Lord Chancellor.
22. Sittings of the court.
23. Appointment and payment of substitute for judge or registrar prevented from attending.

Jurisdiction.

24. Jurisdiction of court.
25. Power to court to fine, suspend, or remove officers in certain cases.
26. Enforcement of orders.
27. Court to settle forms of writs.
28. Forms.
29. Power of appeal to the Court of Appeal in Chancery.
30. No appeal from certain orders of the court.
31. Exclusive jurisdiction over traders in Ireland.
32. The Court of Appeal sitting in bankruptcy to be a court of record, &c.
33. Court of Appeal may direct question of fact to be decided by a jury. Power to move for new trial.
34. Power of appeal to the House of Lords.
35. As to sealing and signature of warrants.
36. Records, proceedings, &c. to be sealed.
37. As to procedure and practice of court.

Officers of the Court.

38. As to appointment of officers of court.
39. Secretary of bankrupts to be chief registrar.
40. Salary of chief registrar.
41. As to appointment of successors to chief registrar and assistant registrars.
42. As to appointment and salary of assistant registrars.

Chief Clerk in Insolvency.

43. Duties and salary of chief clerk in insolvency.
44. Appointment and salary of deputy assistant to chief registrar.
45. Appointment and salary of clerk in town and country departments.
46. Appointment and salaries of other clerks.
47. Appointment of successors to chief clerks, &c.; and not to be removed but by order of court, &c.
48. Power to Lord Chancellor to discontinue offices on vacancies.

Registrars.

49. Court may direct registrar to take proof of debts, &c.
50. Seal to be provided.
51. Registrars and chief clerk to tax bills of costs, &c.;
52. And settle bills of auctioneers, appraisers, valuers, and accountants.
53. Office of clerk of inrolments in bankruptcy, appointed under the 11 & 12 Geo. 3, (I.), abolished, and duties transferred to chief registrar, who shall keep records, &c.
54. Chief registrar to enter proceedings.

Official Assignees.

55. Present official assignees to be continued.
56. Estates of insolvents now vested in provisional assignee to vest in official assignees.
57. Official assignees to act with creditors' assignees.
58. Official assignee removeable.
59. Appointment of official assignees, who shall give security.
60. Duties of official assignees.
61. Money, &c. to be paid by assignees into the Bank of Ireland.
62. Messengers to follow instructions of official assignee.
63. Official assignee to act as sole assignee till creditors choose assignees, &c.
64. Not to interfere with creditors' assignees in appointment, &c. of solicitor, &c.
65. Official assignee not personally liable for acts done in execution of his duty.
66. If official assignee made defendant in certain cases, court may set aside proceedings.
67. Remuneration to official assignee.
68. Returns to Parliament by official assignees, to be certified by chief register.

Messengers.

69. As to appointment and salaries of two messengers.
70. Power to appoint assistant messengers in special cases. Duties of messengers. Travelling expenses, &c., how paid.
71. Messengers not to act as agents. Oath to be taken by messengers before acting.
72. Messenger may break open the bankrupt's or insolvent's doors, &c., and seise upon his body or property.
73. Execution of warrant in England.
74. Execution of warrant in Scotland.
75. Authority of messenger in England and Scotland.
76. Remuneration to messengers.

Exemptions and Disqualifications of Officers, &c.

77. Officers exempt from serving on juries, &c.
78. No judge, &c. to practise as a barrister, &c. Registrars, &c. to be deemed officers of the Court of Chancery.

Salaries, &c.

79. Salaries of registrars and messengers to be paid out of funds provided by Parliament.
80. Compensations and annuities under the 6 & 7 Will. 4, c. 14, continued.
81. Power to her Majesty to grant retiring pensions to judges.
82. As to retiring allowance to present commissioner of Insolvent Court in Ireland.
83. Compensation to clerk of inrolments and other officers whose emoluments are affected by this act.
84. Sum not exceeding 400*l.* per annum to be subject to orders of Lord Chancellor for incidental expenses.

Place for holding the Court, &c.

85. Sittings, &c. to be held in buildings at Four Courts, subject to order of the court.
86. Court may alter place of sitting. Name of court.
87. Power to employ short-hand writer.
88. Short-hand writer to take oath before acting.
89. Remuneration to short-hand writer.

Persons liable to become bankrupt.

90. Enumeration of the traders liable to become bankrupt. What persons not to be deemed such traders.
91. Traders having privilege of Parliament.

Acts of Bankruptcy.

92. Departing the realm, absenting, beginning to keep house, yielding to prison, fraudulent outlawry, arrest, attachment, execution, conveyance, surrender, gift, delivery, or transfer.
93. Conveyance of a trader's property not an act of bankruptcy unless a petition for adjudication be filed within three months.

94. As to any provision on such conveyance for allowance to trader.

95. Lying in prison, and escaping out of prison.

96. Filing a declaration of insolvency.

97. Compounding with petitioning creditor.

98. Trader not paying, securing, or compounding for a judgment debt upon which the plaintiff might sue out execution within fourteen days after notice requiring payment.

99. Trader disobeying order of a court of equity, &c. for payment of money after service of peremptory order for payment on a certain day.

100. Filing petition in insolvency in England, Scotland, or Ireland.

101. Filing petition in Insolvent Debtors Court in India.

102. Filing petition for arrangement between a trader debtor and his creditors.

103. Trader having privilege of Parliament not paying or compounding to the satisfaction of the creditor, and entering appearance to action within one month.

104. Manner of making a debtor a bankrupt by affidavit of debt, and giving notice that affidavit has been filed, and that immediate payment is required. If trader shall not within fourteen days satisfy creditor, he shall be deemed to have committed an act of bankruptcy.

Acts of Bankruptcy by Non-payment after Summons.

105. Creditor making affidavit of debt, &c., court may summon the trader.

106. Delivery of notice, &c. in case of partnership.

107. Manner of proceeding upon the appearance of the trader.

108. Trader not attending summons, or refusing to admit the demand, &c., and not paying or compounding within a certain time, or giving bond for payment of the same, if recovered in action, &c., with costs, to be an act of bankruptcy.

109. Trader signing admission, and not paying, securing, or compounding within a certain time, an act of bankruptcy.

110. Trader admitting part only of a demand, &c., and not paying &c. the sum admitted, and as to residue not paying the same &c., or giving bond to pay the same, if recovered in an action, with costs, an act of bankruptcy.

111. What shall be deemed a refusal to admit a debt. Court may enlarge the time for admission of entering into bond, &c.

112. Admission of debt, signed elsewhere than in court, if attested by trader's attorney, to have the same force as an admission signed in court.

113. Court may award costs to the creditor or to the trader.

114. Notice of acts of bankruptcy to agents of corporate bodies, &c.

115. No person liable upon act of bankruptcy committed more than six months before petition, &c.

Procedure in Bankruptcy.

116. Proceedings in bankruptcy to originate by petition to the Court of Bankruptcy without commission, &c.

117. Amount of petitioning creditor's debt. Debt may be payable at a future time, although security given.

118. Petition for adjudication may be made by the public officer of certain co-partnerships.

119. Verification of petition of bankruptcy.

120. Trader may petition against himself.

121. If adjudication be not obtained within five days after petition, any other creditor may proceed on it.

122. Petitions may be presented against one or more partners, and petitions against two or more persons may be dismissed as to one or more without affecting the rest.

123. Proceedings in cases of a second petition against one or more members of a firm.

124. In case trader against whom a petition has been filed be about to quit Ireland, or to remove or conceal his goods, with intent to defraud creditors, he may be arrested and his goods seized. Trader so arrested may apply to the court for his discharge forthwith.

125. If bankrupt be keeping out of the way, or be about to quit Ireland, &c., court may issue warrant for his arrest.

126. Court may, before adjudication, summon witnesses to prove trading and act of bankruptcy.

127. Court to make adjudication, &c. upon certain proofs.

128. In case petitioning creditor's debt be insufficient, court may proceed upon the application of any other creditor whose debt is sufficient.

129. Bankrupt to have notice before advertisement of adjudication, and to be allowed three days, or such time, not exceeding seven days, as the court shall think fit, to shew cause against adjudication.

130. Court to appoint sittings for bankrupt to surrender and conform.

131. Adjudication may, with bankrupt's consent, be advertised before the expiration of the time allowed for shewing cause.

132. Bankrupt to deliver up his books of account, &c. to the official assignee upon oath; to attend assignees; to be at liberty to inspect books, &c.; and after allowance of certificate, to attend assignees in settling accounts. Allowance for attendance.

133. If bankrupt be not in prison or custody, to be free from arrest in coming to surrender &c., and if in prison may be brought up by warrant to be examined or to surrender &c., and if in prison for debt, the court may, except in certain cases, order his release, absolutely or conditionally.

134. If arrested, to be discharged on producing protection. Penalty on detention.

135. Petitioning creditor to proceed at his own costs until choice of assignees.

136. Petition, &c. not to be invalid by reason only of concert.

137. Court may proceed notwithstanding death of bankrupt.

Last Examination.

138. The bankrupt to prepare and file a balance-sheet and accounts, &c.

139. As to bankrupt apprehended by warrant, and afterwards submitting to be examined.

140. Court may adjourn last examination sine die.

141. Protection of bankrupt from arrest.

142. If bankrupt in custody, court may appoint a person to attend him with books, papers, &c.

Certificate of Conformity.

143. Mode of obtaining certificate of conformity.

144. Form of certificate. Notice of allowance.

145. Effect of certificate.

146. Security to induce creditor to forbear opposition to certificate void.

147. Bankrupt not liable upon any promise to pay debt discharged by certificate.

148. Bankrupt having obtained his certificate free from arrest. Certificate to be evidence of the bankruptcy and proceedings, and bankrupt in execution may be discharged.

Composition after Bankruptcy.

149. If after adjudication three-fifths in number and value of creditors accept composition, the same shall bind the rest.

150. Mode of voting in deciding upon such composition.

Bankruptcy of Joint-stock Companies.

151. If any joint-stock company shall commit an act of bankruptcy, a petition of bankruptcy may be prosecuted as against other bankrupts, subject to the provisions herein made.

152. Bankruptcy of company not to be the bankruptcy of any member individually.

153. Declaration of insolvency, in pursuance of a resolution of the directors, &c., and filed in the office of the court, to be an act of bankruptcy.

154. Company not paying, securing, or compounding for a judgment debt within fourteen days after notice, an act of bankruptcy.

155. Company disobeying order of any court of equity, &c. for payment of money after service of order for payment on a peremptory day fixed, an act of bankruptcy.

156. Creditor filing an affidavit of debt in the court, if the company do not within twenty-one days pay, secure, or compound to the satisfaction of the creditor, an act of bankruptcy.

157. Assignees of the estate of a company may maintain action to recover a debt; and any person may claim any debt due on the balance of accounts.

158. Member's share not to be set off against a demand which the assignees of the estate and effects of a company may have against such member.

159. The court may order the directors of a company adjudged bankrupt, &c. to prepare, verify, and file a balance-sheet and accounts.

160. Persons ordered by the court to prepare the balance-sheet to be under the like obligation to surrender at the last examination, and to submit to be examined &c., and to incur such danger or penalty for not conforming &c. as is now provided against a bankrupt.

161. Persons ordered to prepare the balance-sheet to have the same freedom from arrest, &c. as a bankrupt.

162. As to costs where a person summoned was a member of the company.

163. Penalty on persons wilfully concealing the estate of the company.

164. The court, after adjudication, may order any treasurer, &c. to deliver to the official assignee, or to the Bank of Ireland, all monies, &c. in his custody.

165. The court may give directions for winding up the affairs of the company.

166. Power of court to make calls.

167. Court may stay prosecution of actions.

168. The court shall inquire into the cause of the failure of company, and shall transmit a copy of the balance-sheet to the Board of Trade, and certify the cause of the failure, and any special circumstances.

169. When court shall have certified the cause of the failure of any such company, her Majesty may revoke any privileges granted to the company.

170. The Board may cause the papers to be laid before the Attorney-General to direct any proceedings thereon.

171. Until determination of company by the Crown, it shall be considered as subsisting, and, notwithstanding such determination, shall be considered as subsisting for winding up.

172. Notwithstanding determination of company in any other manner, the same to be considered as subsisting so long as any matters remain unsettled.

173. When company to be deemed an Irish company.

174. Service of order, &c. on company.

175. Jurisdiction of court against joint-stock companies.

176. Call to have effect of decree in Chancery.

177. Act not to apply to companies registered under the 19 & 20 Vict. c. 47.

Procedure in Insolvency.

178. Persons imprisoned for debt may apply to the court for discharge. What shall be stated in the petition. Petition to be signed and filed.

179. Schedule to be filed. Contents of schedule.

180. General and special balance-sheets to be filed.

181. Form of petition, schedule, and balance-sheets.

182. Court may commit insolvent in neglecting to file his schedule.

183. Detaining creditors of prisoners may apply by petition to the court to vest debtors' estates in the official assignee.

184. Form of creditor's petition.

185. Dismissal of petition.

186. Power to the court to direct prisoner to be discharged on his finding sureties to attend at the time and place of hearing.

187. After such discharge insolvent to be free from arrest until hearing.

188. Insolvent not to be discharged until he delivers up all property.

189. In case insolvent shall not duly appear, recognisance to be forfeited &c.

190. Court may empower persons in the assize towns to receive recognisances.

191. Persons residing out of Dublin may enter into recognisances.

192. Court to regulate the amount of such recognisances.

193. Warrant to discharge insolvent on completion of recognisance.

194. Notwithstanding bankruptcy, the court shall proceed as in other cases.

195. Prisoner not to be discharged for want of plaintiff proceeding in his action.

196. Court to appoint time for prisoner to be brought up.

197. Jurisdiction of the court over insolvent debtors in custody elsewhere than in the county or city of Dublin transferred to the assistant barristers.

198. Assistant barrister to whom the petition as to insolvents is referred to have the same powers as the court for discharging or remanding the insolvent, &c.

199. Petition, &c. to be returned by the clerk of the peace to the court.

200. Order for bringing the insolvent before the assistant barrister.

201. The expense of his removal to be paid out of the estate of insolvent, or, on failure of such estate, then by grand jury presentment.

202. Court to have jurisdiction before and pending an adjournment.

203. Jurisdiction of assistant barrister to cease after discharge or remand.

204. Clerk of peace to transmit returns of quarter session days.

205. Order of detaining creditor for discharge of insolvent to be void at option of insolvent.

206. Notice to be given to creditors, and advertised.

207. At the hearing the schedule to be examined.

208. Hearing may be adjourned.

209. Court may order prisoner to be again brought up.

210. Affidavits may be received in opposition to prisoner's discharge in certain cases.

211. Official assignees to examine schedule, balance-sheets, and accounts.

212. Court may adjudge prisoner to be discharged, and entitled to the benefit of act.

213. Court may adjudge discharge, &c. to be forthwith, or not later than six months from the filing of the petition.

214. Court may grant a special discharge to trader, so as to release his future effects.

215. Discharge shall extend to process for contempt in non-payment of money, and to costs incurred by creditor.

216. Discharge shall extend to sums payable by way of annuity, &c.

217. Not to prevent mortgages and other charges on lands, made prior to filing petition, from taking effect.

218. Court may order costs to be paid to opposing creditors out of the estate. Where opposition frivolous, costs may be awarded to prisoner.

219. Court to make order, pursuant to adjudication, and issue warrants to gaoler. Specification of debts, &c. not necessary in adjudication.

220. In certain cases discharge of insolvent to be at any period not later than two years.

221. In other cases the discharge of insolvent to be at any period not later than two years.

222. Adjudication may be conditional in certain cases.

223. Where adjudication a discharge at a future period, the prisoner may be detained or arrested &c. till that period arrives.

224. Court may order detaining creditor to pay prisoner a sum not exceeding 4*s*. a week.

225. If insolvent becomes able to pay his debts, court may make order on him to pay &c.

226. If insolvent dies having sufficient assets, court may make order to pay.

227. Manner of proceeding where, after the discharge of a prisoner, any person shall be possessed of stock in the public funds, &c. belonging to him.

228. Sums recovered under the last three sections to form part of estate.

229. Persons discharged under this act not liable to imprisonment for debts, &c. to which adjudication extends. If arrested, to be released by judge of the court from which process issued, who may order the costs to be paid to him.

230. After discharge, no execution to issue against insolvent for debts, &c. to which adjudication extends. Discharge under this act may be pleaded generally.

231. When debts are satisfied, court may order property in possession of assignees to be vested in the insolvent.

232. Where error in schedule, without fraud, this act to operate upon the actual amount of debt.

233. Adjudication and order to be final, unless obtained on false evidence, &c., in which case court may order a rehearing.

234. Insolvent refusing to appear may be apprehended &c.

235. In adjudication of discharge or rehearing, the time since former hearing not be calculated.

236. If order for discharge issued by mistake, the court may revoke or amend the same.

237. Insolvent may be examined as to his estate after his discharge. Insolvent refusing to appear or to answer questions may be committed.

238. Provisions of act extended to married women.

239. Mode of proceeding with prisoners of unsound mind. Application may be made by persons on behalf of such prisoners. Power to court to discharge such prisoners.

240. No person to receive gaol allowance without subscribing declaration.

241. Notice of declaration to be given in the Dublin Gazette.

242. Proceedings on filing of petition.

243. Unless detaining creditors lodge a petition within twenty-one days, prisoner to be entitled to his discharge.

244. This act not to extend to discharge Crown debtors, &c., unless the Treasury give consent.

245. Sheriffs, &c. indemnified for obeying orders of court.

Proof of Debts.

246. When and how debts may be proved in bankruptcy.

247. Undisputed debts may be admitted as if proved.

248. Bonâ fide creditors in respect of debts contracted after an act of bankruptcy may prove.

249. Court may order six months' wages or salary to clerks or servants.

250. Apprentices to bankrupts or insolvents discharged from their indentures. Court may order any sum to be repaid in respect of apprentice fees.

251. Mutual debts and credits may be set forth.

252. Debts not payable at the time of the bankruptcy or insolvency may be proved, deducting rebate of interest.

253. Sureties and persons liable for the debts of a bankrupt or insolvent may prove, after having paid such debts.

254. Obligees in bottomry or respondentia bonds, and insured in policy of insurance, admitted to claim, and after loss, to prove. Persons effecting insurance admitted to prove any loss.

255. Annuity creditor admitted to prove.

256. Sureties for payment of annuities granted by bankrupt or insolvent, in what manner to come in.

257. Contingent debt to be proveable for the value thereof, to be ascertained by the court, or if value not ascertained before the contingency has happened, then, after contingency has happened, amount of debt may be proved.

258. Liability contingent may be admitted as a claim, and after contingency has happened, and the demand has been ascertained, demand may be proved.

259. On bankruptcy or insolvency of agent intrusted with goods, but which have been pledged by him, owner may prove for amount paid to redeem, or for value if the goods be unredeemed.

260. Interest upon debts when proveable, though not reserved or agreed for.

261. Plaintiff or defendant obtaining judgment, &c. entitled to prove for costs, &c.

262. Proving debt to be an election not to proceed by action.

263. Court may expunge proof of any debts which after investigation do not appear to be due.

264. Ascertainment of debts in insolvency.

Assignees, their Rights and Duties.

265. Assignees, how and when chosen. Power to court to reject or remove persons who appear to be unfit.

266. Joint creditor entitled to prove for the purpose of voting in the choice of assignees.

267. Personal estate to vest in assignees.

268. Real estate to vest in assignees.

269. Where a conveyance of a property of a bankrupt or insolvent would require to be registered, the certificate of the appointment of the assignees shall be registered.

270. Assignees not to take crop in any other way than bankrupt or insolvent would have been entitled to.

271. Bankrupt or insolvent not liable to rents or covenants in conveyances, leases, &c.; and if assignees decline to determine whether they will accept conveyance, &c., any person entitled may apply to the court.

272. Vendor of estate in lands may compel assignees to elect whether they will abide by or decline the agreement for sale.

273. Assignees may execute powers previously vested in bankrupt or insolvent.

274. Court may order bankrupts or insolvents to join in conveyances.

275. Conditional estates granted by the bankrupt or insolvent may be redeemed.

276. Assignees may appoint the bankrupt or insolvent to manage the estate.

277. Assignees subject to orders of court.

278. Member of a firm becoming bankrupt or insolvent, the court may authorise suit in name of assignees and of remaining partner. Partner to have notice, and may shew cause. Court may direct partner to have part of proceeds.

279. Assignees may institute or defend suits, and compound for debts or submit disputes to arbitration.

280. Reference to arbitration to be made a rule of court.

281. Persons from whom the assignees have recovered, or who have paid the assignees, &c., discharged from claims by the bankrupt or insolvent.

282. Allowance to persons disclosing concealed property.

283. Suits not to abate by death or removal of assignees.

284. Protection to assignees if prisoner discharged without adjudication.

285. Limitations of actions for things done in pursuance of this act. General issue. Costs.

The Audit and Dividend.

286. Appointment for sitting for audit.

287. Court may direct money to be invested in Exchequer Bills.

288. Method of making dividends.

289. Sitting for audit and dividend.

290. Final dividend within eighteen months, except where suits depending or estates not sold &c.

291. Outstanding debts, &c. may be sold by the assignees after a certain time.

292. Debtor and creditor account to be furnished by official assignee to trade assignee, &c., before final dividend.

293. No action to be brought for dividends, but the remedy to be by application to the court.

Unclaimed Dividends, &c.

294. Monies standing to credit of "General Fund Account in Insolvency" to be carried to the "Unclaimed Dividend Account."

295. Unclaimed dividends to be carried to the same account.

296. Court may direct investment.

297. Application of interest.

Allowances to the Bankrupt or Insolvent.

298. Bankrupt, &c. allowed to retain, as "excepted articles," furniture, tools, &c.

299. An inventory and valuation of the remainder of the bankrupt's or insolvent's household furniture, &c. to be made, which shall not be sold without order of the court.

300. If bankrupt or insolvent entitled to any allowance, his household furniture, &c. to be taken in lieu of money.

301. Allowance for maintenance.

302. Allowance to bankrupt 5*l.* per cent., and not exceeding 400*l.*, as soon as 10*s.* paid in the pound. 7*l.* 10*s.* per cent., and not exceeding 500*l.*, if 12*s.* 6*d.* 10*l.* per cent., and not exceeding 600*l.*, if 15*s.*

303. One partner may receive allowance, although other not entitled.

304. If estate pay 20*s.* in the pound and interest, and leave a surplus, the same to be paid to bankrupt, &c.

Power of Court in relation to Property, &c.

305. Court may summon bankrupt or insolvent, and issue warrant if he does not attend.

306. Court may examine bankrupt or insolvent as to his estate, &c.

307. Court may summon and examine the wife of bankrupt or insolvent.

308. Court empowered to summon persons suspected of having bankrupt's or insolvent's property, &c.

309. Service of summons where persons keep out of the way.

310. Power to examine persons summoned or present at any sitting.

311. In a case of debts due to bankrupt's or insolvent's estate, court may order payment.

312. Court may order letters addressed to bankrupt or insolvent to be redirected, or delivered to official assignees, &c.

313. Court may order goods in the possession, order, or disposition of the bankrupt or insolvent to be sold. Not to apply to assignment of vessels under the laws for registering vessels.

314. Power of court over certain conveyances, &c. made by bankrupt or insolvent.

315. Court may sell property improperly extended.
316. Court may permit mortgagees to bid at sale.
317. Discretion as to the disposal of property in certain cases.
318. Property may be mortgaged if more beneficial.
319. Pay, half-pay, and pensions of bankrupts and insolvents to be applicable for creditors.
320. Where bankrupt or insolvent beneficially entitled to stock, court may make order for transfer.
321. Distress not to be available for more than one half-year's rent due; the landlord to prove for the residue.
322. Where bankrupt or insolvent is a trustee, court may order assignment to another trustee.
323. Titles to property sold not to be impeached.
324. The court may order any treasurer, &c., or agent of the bankrupt, to deliver all monies, &c.
325. Goods under attachment to be delivered up.
326. Search warrants may be granted.
327. No action to be brought against persons acting in obedience to warrant of the court.

Protected Transactions.

328. Payments, conveyances, contracts, &c., executions against lands, (if executed by seizure), and against goods, (if executed by seizure and sale), to be valid, if no notice of prior act of bankruptcy. Nothing herein to give validity to payment, &c. by way of fraudulent preference.
329. Creditors having security not to receive more than other creditors.
330. No validity to null or fraudulent matters.
331. Registry of judgment under the 13 & 14 Vict. c. 29, not to give priority unless &c.
332. Bonâ fide purchases not to be impeached unless petition filed within six months after act of bankruptcy.

Warrants of Attorney, &c.

333. Certain warrants of attorney, cognovits, and consents, given within two months of filing petition, to be null and void.
334. Warrants of attorney and cognovits actionem to be void, unless the same or a copy thereof be filed &c. within twenty-one days after the execution thereof.
335. Pleas of confession, consents, &c. to be void unless filed within twenty-one days, in like manner with warrants of attorney and cognovits actionem.
336. Judgments not registered within twenty-one days of entering to be void.
337. Fee for search.
338. Voluntary preference fraudulent and void as against assignees.
339. Warrant of attorney and cognovit actionem not to be acted upon against goods of insolvent after his imprisonment.

Estates Tail.

340. Clauses in the 4 & 5 Will. 4, c. 92, with respect to the disposition of estates tail under bankruptcies, extended to proceedings under this act.

Copyholds.

341. Court may make sale of copyhold lands for the benefit of creditors.
342. Vendees of copyhold lands shall compound with the lord for their fines.

Arrangements under the Control of the Court.

343. Any trader unable to fulfil his engagements with his creditors may petition the court for protection. Petition to be supported by affidavit.
344. Court to appoint private sitting, and estate to be possessed by official assignee.
345. Petitioning trader to file an account ten days before the day appointed for private sitting.
346. At first sitting creditors to prove their debts, and if three-fifths in number and value of those who have proved debts to the amount of 10*l.* and upwards assent to proposal, sitting for confirmation to be appointed.
347. If at second sitting three-fifths in number and value of the creditors who have proved debts to the amount of 10*l.* and upwards agree to accept, resolution to be binding on all, and court may approve and confirm the same.
348. Agent of creditor may vote.
349. Estate to vest in official assignee, either alone or (if required by resolution) jointly with any other person.
350. Official assignee to file account every six months.
351. If any difficulty arise in the execution of resolution, &c., a special sitting may be held.
352. When resolution or agreement has been carried into effect, court to give petitioning creditor a certificate thereof, and such certificate to operate as a certificate of conformity.
353. If petitioning debtor do not attend sittings of the court, or if he do not file account, &c., petition to be dismissed; and if at first sitting proposal be not assented to, or if debts contracted by frauds, &c., or if petitioning debtor has not made true discovery, &c., court may adjudge him bankrupt, and adjourn the proceedings into the public court, &c.
354. Private sittings.
355. Questions of law raised by consent.
356. Payment of money by party on judgment being given.

Evidence.

357. Officer of court to produce proceedings, and give copies thereof.
358. If bankrupt do not dispute the adjudication, the Gazette to be conclusive evidence of the bankruptcy as against the bankrupt, and against persons whom the bankrupt might have sued.
359. In certain actions by or against any person acting under the bankruptcy, no proof required at the trial of petitioning creditor's debt, trading, or act of bankruptcy, unless notice be given that those matters are to be disputed.
360. The same in suits in equity.
361. Proceedings purporting to be sealed with the seal of the court receivable in evidence. Commissions of bankrupt, &c. entered of record under the 11 & 12 Geo. 3, c. 8, (I.), and the 6 & 7 Will. 4, c. 14, to be received as evidence of the same.
362. Judicial notice to be taken of signature of judge or registrar, and of the seal of the court.
363. Evidence of declaration of insolvency.
364. Advertisements, when evidence.
365. On death of witness, office deposition, or copy thereof, to be evidence.
366. Before whom affidavits are to be sworn.
367. Affidavits may be sworn in prison before visiting justice or keeper of prison.
368. No fees payable for swearing affidavits.
369. Evidence may be taken vivâ voce or upon affidavit.
370. Examination of witnesses at a distance from Dublin in certain cases.
371. Forms of rules and proceedings of the court.

Solicitors.

372. Every attorney or solicitor of the superior courts may practise in the court.
373. Misconduct of attorney or solicitor.
374. The provisions and powers given to the Lord Chancellor, &c. in bankruptcy under the 3 & 4 Vict. c. 105, s. 27, to be applicable to this act.

Costs.

375. Court may in all cases award costs.

Offences against the Law of Bankruptcy and Insolvency.

376. Bankrupt or insolvent not delivering up books, &c., or removing, concealing, or embezzling estate.
377. Wilfully omitting anything in the schedule.
378. Bankrupt or insolvent destroying or falsifying books, &c.
379. Any member of a company, with knowledge of or in contemplation of a bankruptcy, destroying or falsifying books, &c. of the company, or making false entries, &c.
380. Bankrupt or insolvent within three months preceding his bankruptcy or insolvency obtaining goods on credit under false pretence of dealing in the ordinary course of trade.
381. Bankrupt or insolvent within three months preceding his bankruptcy or insolvency committing any fraud on his creditors, &c. guilty of misdemeanour.
382. Persons convicted of misdemeanour to be liable to imprisonment.
383. False evidence deemed wilful and corrupt perjury.
384. Court may direct prosecution.
385. Any person refusing to be sworn, or refusing to answer, or not fully answering, or refusing to sign examination, or to produce books, &c., may be committed.
386. Warrant of committal for unsatisfactory answering, or refusing to answer, need not specify questions. Copy of the examination to be furnished to the person committed.

387. Form of warrant.

388. On habeas corpus, judge or court may inspect the whole examination.

389. Obstructing the messenger, &c. a misdemeanour.

390. Assignee disobeying direction to pay or invest money, and retaining it, or permitting co-assignee to retain or employ it, to be charged with 20*l.* per cent.

Offences against the Law of Bankruptcy, &c.

391. Persons disobeying any order of court to be committed to prison until they conform, or the court or the Lord Chancellor shall otherwise order.

392. Petitioning creditor compounding with trader after bankruptcy.

393. Concealing bankrupt's or insolvent's effects.

394. Obtaining money, &c. as inducement to forbear opposition or consent to certificate or discharge.

395. Officers, &c. taking fees improperly.

396. Inserting advertisements without authority.

397. Forging signature of judge or officer, or the seal of court.

398. Gaoler suffering persons committed to escape.

399. Application of forfeitures.

Fees and Stamp Duties.

400. Stamps in lieu of fees. No fees to be payable other than as directed by this act.

401. Commissioners of Inland Revenue to give the necessary directions.

402. After deducting expenses, commissioners to pay over balance of stamp duties to "Bankruptcy Fee Fund Account."

403. Drafts on Bankruptcy Fee Fund.

404. Power to order surplus of Bankruptcy Fee Fund to be paid into the Exchequer.

405. Commissioners of Inland Revenue may appoint persons for sale and distribution of stamps, and make allowance for spoiled stamps.

406. Provisions of former acts relating to stamps to be applied to the stamps to be provided under this act.

407. Appointment of accountant-general.

408. As to payments out of Bankruptcy Fee Fund Account.

409. Act to extend to aliens and denizens.

410. Act to extend to Ireland only, except &c.

CAP. LXI.

An Act for granting certain Duties of Customs and Excise. [25th August, 1857.]

Sect. 1. Grant of duties of customs and excise.

2. Drawback on sugar.

3. Duties to be under the management of Commissioners of Customs and Inland Revenue respectively,

4. Commencement of act. Short title.

CAP. LXII.

An Act for the Alteration and Amendment of the Laws and Duties of Customs. [25th August, 1857.]

Sect. 1. Duties on "oxymuriate of tin" to cease.

2. New duties on articles herein enumerated.

3. New duties on rice.

4. New duties on ships broken up or to be broken up.

5. Repeal of sect. 10 of the 16 & 17 Vict. c. 107.

6. Proviso for continuance of existing warehouses for tobacco already warehoused.

7. Tobacco already warehoused to remain on the terms existing at the passing of this act.

8. Power to approve of tobacco warehouses for general purposes.

9. Power to keep tobacco warehouses for any purposes.

10. Power to enter into agreements with owners of tobacco warehouses for their surrender.

11. Power to arrange with warehouse keeper of tobacco warehouses surrendered, or other warehouse keeper, for deposit of warehoused tobacco until cleared.

12. Provision for warehousing future importations of tobacco.

13. Tobacco abandoned by importer as not worth the duty to be destroyed.

14. Defendants in customs cases not to give evidence.

15. Customs acts to extend and apply to British possessions abroad, except where otherwise expressly provided for in the said acts, or by any colonial act.

16. Account of bullion or coin to be delivered to the officers of customs.

17. So much of the 16 & 17 Vict. c. 106, as repeals sects. 9, 10, 11, and 12 of the 8 & 9 Vict. c. 90, repealed, and such sections deemed not repealed.

18. Sect. 19 of the 18 & 19 Vict. c. 96, repealed.

19. As to importing and exporting spirits from and to the Channel Islands, in ships of fifty tons and upwards, and casks of twenty gallons. Not to extend to spirits in glass bottles, nor to stores, nor to certain warehoused goods exported, nor to licensed boats of ten tons supplying the island of Sark.

20. Interpretation of terms.

21. Act to be registered in Royal Courts of Guernsey and Jersey.

22. Confirmation of certain purchases of land in Belfast for erection of a custom-house, &c.

23. Commencement of act. Short title.

CAP. LXIII.

An Act to authorise the Advance of Money out of the Consolidated Fund to the Magistrates and Town Council of Dunbar, for the Purpose of improving the Victoria Harbour of Dunbar. [25th August, 1857.]

CAP. LXIV.

An Act for raising a Sum of Money for building and improving Stations of the Metropolitan Police, and to amend the Acts concerning the Metropolitan Police. [25th August, 1857.]

Sect. 1. Power to raise the sum of 60,000*l.* on security of the police rates of the metropolitan police district. No priority amongst mortgagees.

2. Power to Public Works Loan Commissioners, acting under the 14 & 15 Vict. c. 23, to make advances.

3. Form of mortgage. Register of mortgages.

4. Repayment of money borrowed at a time agreed upon. Interest on mortgages to be paid half-yearly. As to repayment of money borrowed when no time has been agreed upon. Interest to cease on expiration of notice to pay off a mortgage debt.

5. Power to borrow to pay off existing securities.

6. Transfer of mortgages. Register of transfers.

7. Money advanced to be paid into the Bank to the credit of the receiver's account.

8. Monies borrowed under this act to be a first charge on the police rate.

9. As to payment of monies borrowed.

10. The 3 & 4 Will. 4, c. 89, s. 2, and the 2 & 3 Vict. c. 47, s. 3. Sect. 2 of the 3 & 4 Will. 4, c. 89, repealed, but the contribution under the two enactments not to exceed 2*d.* in the pound on the rental assessed.

11. The 10 Geo. 4, c. 44. The rateable value of buildings erected since the last county rate valuation to be taken into account for the purposes of the police rate.

12. Overseers to make returns of new buildings.

13. Power to receiver for metropolitan police district, &c. to inspect rates.

14. Penalty on overseers neglecting to make returns, or refusing to produce rates.

15. Deficiency of police superannuation fund may be made good out of other monies applicable to the charge of the police.

CAP. LXV.

An Act to defray the Charge of the Pay, Clothing, and contingent and other Expenses of the Disembodied Militia in Great Britain and Ireland; to grant Allowances in certain Cases to Subaltern Officers, Adjutants, Paymasters, Quartermasters, Surgeons, Assistant-Surgeons, and Surgeons' Mates of the Militia; and to authorise the Employment of the Non-commissioned Officers. [25th August, 1857.]

Sect. 1. Secretary of State for War to issue the money required for pay of regular militia. Rates of pay. Rates of pay when absent on furlough. Contingent fund. Clothing.

2. Adjutant, &c. to reside where the Secretary of State for War shall appoint.

3. Adjutants, quartermasters, and non-commissioned officers of militia may be employed in their counties.

4. Quartermaster, &c. to have charge of the arms and clothing. Adjutant to issue the money for contingent expenses on an order signed by the colonel. Balance to form a stock purse. Arms may be deposited in War-office stores, by order of the Secretary of State for War.

5. In absence of the adjutant, the sergeants to be under the command of the quartermaster, and in his absence, of the sergeant-major.

6. Militia when called out for training or exercise entitled to pay.

7. Volunteers attached to regiments of the line to be subject to the Mutiny Act.

8. Certain officers unfit for duty entitled to a retired allowance, upon making a declaration. Form of declaration.

9. Out-pension to reduced non-commissioned officers and drummers not to be received while serving.

10. Persons on half-pay, or entitled to allowance as having served in the army or navy, empowered to receive pay, &c. during training.

11. Adjutants, &c., non-commissioned officers, or privates, not to lose their right to Chelsea or Kilmainham pensions, &c.

12. Allowance to be made for medicines.

13. Reduced adjutants to receive 4*s*. per day till the 31st July, 1858. Right to half-pay reserved.

14. Adjutants entitled to allowance under the 39 & 40 Geo. 3, c. 44.

15. Reduced adjutants may take such allowance, with any pay or other allowance under the 39 & 40 Geo. 3, c. 44, and the 26 Geo. 3, c. 107. Proviso.

16. Allowances to adjutants, surgeons, and quartermasters.

17. Allowances granted to adjutants on completion of certain periods of service.

18. Restrictions as to allowances to reduced adjutants of the local militia.

19. A declaration to be taken by adjutants of local militia claiming the said allowance.

20. Allowance to clerks of general meetings, &c.

21. Manner of granting allowances. Clerks, &c. to make declaration of the justness of their accounts.

22. Deputy-lieutenants may require the attendance of any surgeon residing near the place of meeting for appeals. Declaration to be made by surgeon. Allowance to surgeon.

23. Pay, &c. to be issued under the directions of the Secretary of State for War.

24. Bills drawn for pay, &c. may be on unstamped paper.

25. No fee to be taken.

26. All things in this act relating to counties shall extend to ridings, shires, &c.

27. Continuance of act.

CAP. LXVI.

An Act for punishing Mutiny and Desertion of Officers and Soldiers in the Service of the East India Company, and for regulating in such Service the Payment of Regimental Debts and the Distribution of the Effects of Officers and Soldiers dying in the Service. [25th August, 1857.]

Sect. 1. Power to her Majesty to make Articles of War, of which all courts shall take judicial notice, and copies to be transmitted to judges and governors. Trial of native officers or soldiers.

2. Persons subject to this act.

3. For the purposes of this act, the Presidency of Fort William to comprise that of Agra.

4. Officers, &c. raised or serving in places occupied by persons subject to the government of the company liable to martial law as other forces.

5. After embarkation, all officers and soldiers subject to provisions of this act. Offences committed during passage cognisable after arrival.

6. Power to the commanders-in-chief at the several Presidencies to convene courts-martial for trial of offences. Power to her Majesty to grant commissions or warrants for convening of courts-martial for trying offences against Articles of War.

7. Composition and constitution of general courts-martial.

8. Composition and powers of district or garrison courts-martial.

9. Regimental or detachment courts-martial.

10. Courts-martial on line of march or in troop ships.

11. Power to officers in command of troops in foreign countries to convene detachment courts-martial. No sentence to be executed until approved.

12. Proceedings on mixed courts-martial, how to be regulated. Courts-martial in some cases may be wholly composed of Queen's officers.

13. President of court-martial.

14. Proceedings at trial.

15. As to swearing and summoning witnesses.

16. Previous convictions may be put in evidence before passing sentence.

17. Report of proceedings of general and district courts-martial to be transmitted to Judge Advocate General.

18. No second trial to be had for the same offence, and no revision more than once.

19. Crimes punishable with death.

20. Judgment of death.

21. Judgment of death may be commuted for transportation or other punishments.

22. Embezzlement punished by transportation or penal servitude.

23. As to execution of sentences of transportation or penal servitude.

24. Transports to be subject to the convict laws of the place of transportation or penal servitude.

25. Power to inflict corporal punishment.

26. Power to inflict corporal punishment and imprisonment.

27. Power to commute corporal punishment for imprisonment.

28. Courts-martial may, in addition to other punishment, order forfeiture of pay and pension.

29. Forfeiture of pay on being found guilty of desertion, and to or on conviction for felony.

30. Forfeiture of pay when in confinement under sentence of court-martial or for debt, &c.; or during absence on commitment under a charge; or in confinement for debt; or when prisoner of war, until inquiries shall be made; or when convicted of desertion or of absence without leave; or when absent without leave not exceeding five days.

31. Forfeiture of pay for drunkenness on duty.

32. Forfeiture of pay and liquor for habitual drunkenness.

33. Stoppages.

34. Power to discharge soldier with ignominy.

35. Marking deserters.

36. Power of imprisonment by different kinds of courts-martial.

37. As to imprisonment of offenders already under sentence for previous offence.

38. Terms of imprisonment under sentence of courts-martial.

39. Place of imprisonment.

40. Keepers of prisons to receive military offenders.

41. Orders as to removal of prisoners to be obeyed.

42. Diet of prisoners.

43. Notice to be given of the expiration of imprisonment.

44. Musters, and punishments for false musters.

45. Trials for desertion after subsequent enlistment.

46. As to fraudulent confession of desertion.

47. Punishment for inducing or assisting in desertion.

48. Enlisting and attesting recruits.

49. Recruits concealing infirmities punishable.

50. Penalty on militia men inrolled under the 15 & 16 Vict. c. 50, enlisting wrongfully.

51. No paymaster to receive fees, or to make unusual deductions out of pay, or to detain pay. Penalty on paymasters for so doing.

52. Penalty for procuring false musters.

53. Penalty on purchasing soldier's necessaries, stores, &c.

54. Soldiers entitled to discharge may claim to be sent home free of expense. Punishment of offences on the voyage.

55. Power to appoint general courts-martial anywhere beyond 120 miles from the Presidencies (except Prince of Wales Island, Singapore, and Malacca) for the trial of capital and other offences.

56. Proviso for confirmation by the Governor in Council in certain cases.

57. Government of Presidencies may suspend proceedings.

58. Certain offenders, if apprehended by civil authorities, to be delivered over for trial by court-martial.

59. The ordinary course of law not to be interfered with.

60. Soldier not to be arrested for debt unless amounting to 300 company's rupees.

61. Persons employed under Articles of War to collect effects of officers dying in service abroad may do so without probate or letters of administration.

62. What debts to be deemed regimental debts, and to have priority accordingly.

63. Regimental debts to be paid without probate or letters of administration, and the surplus only to be deemed the personal estate to be administered. Military secretary to administer such surplus when not exceeding 1000 company's rupees, without probate or administration, and duty free.

64. Effects, &c. remitted not to be deemed assets in the place to which remitted, so as to render administration necessary. Power to military secretary to order remittance of effects to any other place in India.

65. Mode of administering surplus prescribed. Registrar of supreme courts to take out administration to surplus.

66. Power to her Majesty to make provision for the collection and administration of the effects of deserters.

67. Where troops are serving beyond the jurisdiction of the courts of requests, actions of debt not exceeding 400 company's rupees to be cognisable by a military court. Composition and constitution of the court prescribed. President, &c. of court to take oath. Powers of such court defined.

68. Term and limitation of actions. Mode of procedure.

69. Mode of receiving penalties.

70. One moiety to informer, remainder to military secretary of the Presidency.

71. Punishment for giving false testimony.

72. Offences against former Mutiny Acts and Articles of War and all existing proceedings continued.

73. Queen's prerogative of mercy not affected.

74. Not to affect provisions of the 7 & 8 Vict. c. 18.

75. Act to commence on the 1st January, 1858. From and after the 1st January, 1858, provisions of the 12 & 13 Vict. c. 43, and Articles of War made in pursuance of the same, to cease, except as herein provided.

CAP. LXVII.

An Act to extend the Time for enabling the Commissioners of her Majesty's Works to complete Improvements in Pimlico and in the Neighbourhood of Buckingham Palace. [25th August, 1857.]

CAP. LXVIII.

An Act to enable the Lord Lieutenant to appoint Revising Barristers for the Revision of Lists and Registry of Voters for the City of Dublin. [25th August, 1857.]

CAP. LXIX.

An Act to apply a Sum out of the Consolidated Fund and the Surplus of Ways and Means to the Service of the Year 1857, and to appropriate the Supplies granted in this Session of Parliament. [25th August, 1857.]

CAP. LXX.

An Act to provide for the Extension of the Boundaries of Burghs in Scotland, and to remove Doubts as to the Right of certain Persons holding Offices to be registered as Voters for Municipal Purposes. [25th August, 1857.]

Sect. 1. Ratepayers may present a petition to the sheriff for extension of boundary of burgh.

2. Sheriff to call meeting of ratepayers for the consideration of the proposed extension of boundaries.

3. In case town council consent to proposed extension, the same shall be reconsidered by meeting of ratepayers.

4. Consent of council required before resolution considered. Sheriff may, on objection of proprietors, suspend proceedings until their consent be obtained.

5. If proposal be rejected by ratepayers, no extension to be proposed for two years.

6. Sheriff to direct a scrutiny, if ratepayers petition for one.

7. Penalties for making false representations as to voting.

8. Persons incapacited by office not to be excluded from register of voters.

9. Expenses of meeting, how to be provided.

10. Interpretation of terms.

CAP. LXXI.

An Act for the Regulation of the Care and Treatment of Lunatics, and for the Provision, Maintenance, and Regulation of Lunatic Asylums, in Scotland. [25th August, 1857.]

Sect. 1. On the 1st January, 1858, recited acts repealed.

2. Officers to continue till recalled, and orders made under the repealed acts to be good.

3. Interpretation of terms.

4. Constitution of board.

5. Meetings of board.

6. Power to board to name committees.

7. Commissioners before acting to take oath.

8. Commissioners not to derive profit for discharging the duties of their office.

9. Powers of commissioners.

10. Public asylums founded after passing of this act to be subject to it.

11. Commissioners may institute inquiries, and summon witnesses, and examine them on oath.

12. Payment of expenses of witnesses.

13. Power to her Majesty to appoint a secretary.

14. Secretary to make annual returns.

15. Secretary to keep books, minutes, and accounts, and accounts to be annually furnished to the Commissioners of the Treasury, &c.

16. Power to board to appoint a clerk.

17. Duties of commissioners.

18. Commissioners to visit lunatics in prisons.

19. Commissioners to visit poor-houses.

20. Commissioners may take assistance of medical persons.

21. Secretary of State may appoint one or two medical persons to be deputy commissioners.

22. Board to cease after five years, and the paid commissioners to be the inspectors-general in lunacy.

23. After five years Secretary of State may empower the inspectors-general to exercise powers of board.

24. Oath to be taken by officers before acting.

25. Sheriff to visit and inspect asylums.

26. Justices of the peace to visit and inspect asylums.

Licenses for Private Asylums, and Orders and Certificates.

27. On application for license, plan of the house to be exhibited.

28. Licenses to be granted by the board according to form in Schedule (B.)

29. In case of refusal to renew license, existing license may be continued for a time.

30. License and patients may be transferred.

31. Sums to be paid for orders of admission to public asylums.

32. Monies received for licenses, &c. to be applied in payment of salaries and other expenses of act.

33. Balance of payments over receipts may be paid out of monies to be voted by Parliament.

34. Lunatic to be admitted by order of sheriff, and on medical certificate.

35. Medical certificate to specify facts on which opinion of insanity has been formed.

36. Orders and medical certificates may be amended.

37. Copies of orders, medical certificates, &c. to be sent to the board.

38. No certificate to be granted without examination. Penalty on granting false certificate.

39. Penalty for receiving lunatics in unlicensed houses, or without the required order.

40. Board may grant an order for search of records as to whether any particular person has been confined as a lunatic within twelve months.

41. As to lunatic received into any private house.

42. House where lunatic detained under order of the sheriff may be visited by the board.

43. Board may order examination of lunatics in private houses.

44. Patients may be transferred.

45. Medical attendance upon asylums.

46. Board, where license is for less than eleven persons, may lessen the number of medical visits.

Access of Friends and others to Lunatics.

47. Power to ministers and friends of patients to visit them, subject to regulations of asylum.

48. Power to board to grant orders for access to patients.

District Asylums.

49. Districts fixed.

50. District boards to be appointed. 2 & 3 Vict. c. 42.

51. Board to inquire into the necessities of the districts, and require asylums to be provided.

52. Board to require the district boards to provide district asylums. Provisions of the 2 & 3 Vict. c. 42, applied to this act.

53. District asylums vested in district boards.

Assessments.

54. Expense of district asylums how to be raised.

55. Expense of asylums to be defrayed out of assessment.

Special Arrangements.

56. Property or money held in trust for establishment of an asylum may be contributed in lieu of assessment.

57. County making over asylum to the district board to have deduction from amount of assessment.

58. Right of accommodation may be bought up.

59. District boards may agree with existing asylums for the reception of pauper lunatics.

60. As to pauper lunatics to be received into the Crichton Institution at Dumfries or the Southern Counties Asylum.

Borrowing Money.

61. Power to borrow money on security of assessments.

62. Power to Public Works Loan Commissioners to lend money for the purposes of this act.

63. Provision for payment of the interest on borrowed monies and a portion of the principal in each year.

64. Provision for money borrowed being paid off within thirty years.

65. Persons lending money on security of assessments protected against omissions to comply with provisions of this act.

66. Power to raise money to pay off sums already borrowed.

67. District boards to furnish annual statements.

68. District board to take charge of asylum when finished.

69. Notice of the district asylum being ready for the reception of patients to be given.

70. District inspectors to be appointed, and their duty.

71. Unqualified medical persons not to practise under this act.

72. Provision for neglect in execution of act.

73. Charge for pauper lunatics, and application of the monies to be received.

74. District boards to keep books.

75. Pauper lunatic to be held to belong to the parish of his settlement.

76. Parish of the settlement to be liable in the repayment of expenses.

77. Expense incurred for lunatic, from whom to be recovered.

78. Expenses to be paid in the first instance by the parish in which lunatic was committed. Notice to parish of settlement.

79. Access to pauper lunatics by parties interested in the expense of their maintenance, &c.

80. Where district asylum can accommodate more than the lunatics of the district, other lunatics may be admitted.

Property of Lunatics.

81. Where property of lunatic not under judicial management, and not properly applied for his benefit, application to be made to the court.

82. Where property of lunatic, though under management of judicial factor, not properly applied for benefit of lunatic, application to be made to the court.

83. Expenses incurred as to property of lunatics to be defrayed from such property.

84. Accountant of Court of Session to see that caution for judicial factors to lunatics is sufficient.

Dangerous and Criminal Lunatics.

85. Sheriff may commit dangerous lunatics.

86. Power to sheriff to transmit lunatic to another county.

87. Provision for cases where insanity stands in bar of trial.

88. Provision for case of lunatic acquitted of a criminal charge on the ground of insanity.

89. Provision for case of prisoner exhibiting insanity when in confinement as a prisoner.

90. Provision for detention of lunatics in remote places.

91. Lunatics may be removed from one asylum to another.

92. Liberation of lunatic by relation or others.

93. Exception of lunatics detained by courts of law.

94. Patient released to have copy of order, and certificates, &c., on which he was confined.

95. Pauper lunatics to be sent to a district asylum, except under special circumstances.

96. Register of lunatics to be kept in asylums.

97. Registration and notice of death of lunatics.

98. General register to be kept.

99. Punishment for maltreating any lunatic.

100. Power to the Lord Advocate to inspect books of commissioner.

101. Penalty on false statements, or refusal to comply with act.

102. Board annually to report to Secretary of State.

103. Orkney and Shetland separate counties.

104. Provision for the visitation of lunatics under order from Secretary of State.

105. Power to Secretary of State to order a special visitation of any place where a lunatic is represented to be confined.

106. Penalties, how to be recovered.

107. Application of penalties.

108. Informalities.

109. Powers granted to sheriffs to be without prejudice to their power at law.

110. Any county may constitute itself into a district under this act.

111. Provisions of this act may be enforced summarily.

112. Inspectors of poor to give intimation of pauper lunatics within their parishes.

113. Certain provision of the 8 & 9 Vict. c. 83, repealed.

114. Assessing clauses not to apply to Shetland.

CAP. LXXII.

An Act to render more effectual the Police in Counties and Burghs in Scotland. [25th August, 1857.]

Sect. 1. Commissioners of supply to establish police force.

2. Commissioners of supply to appoint police committee to carry act into execution.

3. Rules for government, pay, &c. of constables to be made by Secretary of State.

4. Chief constable of the county to be appointed, and may serve for more than one county.

5. Number of constables may be increased or diminished.

6. Chief constable to appoint the other constables.

7. Additional constables may be appointed at the cost of individuals.

8. Power to appoint additional constables to keep the peace on public works. Company or parties carrying on such works to pay expenses of such constables.

9. Stat. 8 & 9 Vict. c. 3, repealed after twelve months from the date of this act.

10. Chief constable to appoint a deputy.

11. Oath to be taken by constables. Powers of constables.

12. Duties of constables.

13. Constables may, in certain cases, accept bail or deposit.

14. Warrants and deliverances in criminal proceedings to be executed by constables.

15. Constables to perform all duties connected with the police.

16. Constables not to receive to their own use fees for performance of their duties.

17. Constables disqualified from voting at certain elections.

18. Constables exempted from serving on juries, &c.

19. Constables not prevented from receiving half-pay.

20. Penalty on constables for neglect of duty.

21. Constables not to resign without leave or notice.

22. Constables dismissed to deliver up accoutrements, &c.

23. Penalty on unlawful possession of accoutrements, and assuming dress of constables.

24. Penalty on publicans harbouring constables during the hours of duty.

25. Horses, &c. in the service of the police exempted from toll.

26. Chief constable to make reports.

27. Allowances to chief constable, &c. for necessary expenses.

28. Expenses of county police to be defrayed out of police assessments.

29. Police assessment to be levied for the purposes of this act.

30. Regulations as to payment of small assessments.

31. Commissioners of supply may grant relief for assessment in case of poverty.

32. Mode of recovering assessments.

33. Disputes as to assessments to be summarily settled.

34. Recited act 2 & 3 Vict. c. 65, repealed. As to assessments levied prior to passing of this act.

35. Detached parts of counties to be taken as part of the county in which locally situated.

36. Sheriffs and justices may act in detached parts of other counties locally situate within their counties.

37. Contributions to be paid on account of detached parts of counties.

38. How such contributions to be reimbursed.

39. In case of default in payment the amount may be levied directly on the detached district.

40. Collector under this act to be appointed by commissioners of supply.

41. Collector to lodge all monies received by him in bank.

42. Collector, &c. to keep separate accounts of receipts and expenditure.

43. In case of insolvency of collectors, deficiency may be assessed.

44. Books of accounts and minutes of proceedings to be kept by commissioners of supply.

45. Accounts of receipts and expenditure to be annually made out and published.

46. Auditors to be appointed.

47. Auditors to inspect and audit accounts, and appeal may be taken against any part of such audit to the sheriff.

48. Three commissioners of supply to be a quorum. Preses at meetings to have casting vote.

49. Convener to act as preses.

50. Papers and documents emanating from the commissioners of supply and police committee, how to be authenticated.

51. Actions by or against commissioners of supply, how to be brought, and not to abate.

52. Power to grant, out of the superannuation fund, gratuities to incapacitated constables.

53. Power to grant superannuations to chief constables.

54. On establishment of county constabulary under this act, old police force to be discontinued.

55. Station houses and strong rooms or lock-ups to be provided.

56. Provisions of the 8 & 9 Vict. c. 19, for the purpose of purchase of station houses, &c. incorporated with this act.

57. Money may be borrowed on the credit of police assessments.

58. Police districts may be formed.

59. Each police district to pay for its own constables.

60. Her Majesty may, by Order in Council, require separate police districts to be constituted in counties.

61. Burghs may agree to consolidate their police with county police.

62. Provisions for government of county and burgh police when consolidated.

63. Her Majesty in Council, on representation from burghs, may arrange terms of consolidation of police with counties.

64. Annual statement as to crime in counties and burghs to be furnished to Secretary of State.

65. Her Majesty may appoint inspector of police.

66. On certificate of Secretary of State that an efficient police has been established in any county or burgh, one-fourth of the charge for pay and clothing to be paid by the Treasury.

67. No such sum to be paid to any burgh where population does not exceed 5000, &c.

68. Recovery of penalties under this act.

69. Application of penalties.

70. Parishes of Cumbernauld and Kirkintilloch to be considered as part of county of Dumbarton.

71. Parishes of Tulliallan and Culross, and Perthshire portions of Logie, to be considered as part of county of Clackmannan, and Perthshire portions of Fossoway and Muckhart as part of county of Kinross.

72. Burghs not having a police establishment may adopt one within six months.

73. In royal burghs, &c., containing more than two thousand inhabitants, chief magistrate to be an ex officio member of police committee.

74. Act not to diminish powers of magistrates of royal and other burghs which may form part of any district under this act.

75. Any burgh maintaining efficient police to be dealt with as if it maintained a separate police force under a police act.

76. Act not to extend to Orkney or Shetland unless her Majesty shall so direct.

77. Act not to affect railway, &c. police.

78. Interpretation of terms.

CAP. LXXIII.

An Act for the Abatement of the Nuisance arising from the Smoke of Furnaces in Scotland. [25th August, 1857.]

Sect. 1. From and after the 1st August, 1858, all furnaces within the limits of the act to consume their own smoke.

2. Power to remit penalties where furnaces have been so constructed or altered as to consume, as far as possible, all the smoke arising from the same.

3. No complaint to be brought except by local authority, &c.

4. All complaints brought, and all applications to sheriff, &c., to be by summary petition, &c.

5. No written pleadings, &c. allowed.

6. Justices and magistrates not to act where expense of altering furnace, &c. will exceed a certain sum.

7. Appeal in certain cases.

8. Expense may be awarded against the local authority or party complaining.

9. No appeal.

10. Service of notices and petitions.

11. One or more joint owners may be proceeded against alone.

12. As to expenses incurred in executing this act.

13. How monies recovered under this act to be applied.

14. Interpretation of terms.

CAP. LXXIV.

An Act to continue the Act concerning the Management of Episcopal and Capitular Estates in England. [25th August, 1857.]

Sect. 1. The 14 & 15 Vict. c. 104, as amended by the 17 & 18 Vict. c. 116, continued until the 1st January, 1860.

CAP. LXXV.

An Act to confirm an Order in Council concerning the Exercise of Jurisdiction in Matters arising within the Kingdom of Siam. [25th August, 1857.]

CAP. LXXVI.

An Act further to continue for a limited Time the Exemption of certain Charities from the Operation of the Charitable Trusts Acts. [25th August, 1857.]

Sect. 1. Exemption continued until the 1st September, 1858.

CAP. LXXVII.

An Act to amend the Law relating to Probates and Letters of Administration in England. [25th August, 1857.]

Sect. 1. *Commencement of act.*
2. *Interpretation of terms.*
3. *Testamentary jurisdiction of ecclesiastical and other courts abolished.*
4. *Testamentary jurisdiction to be exercised by a Court of Probate.*
5. *Power to her Majesty to appoint a judge of the Court of Probate.*
6. *Judge's tenure of office.*
7. *Judge before acting to take oath.*
8. *Rank and precedence of judge, who shall appoint a secretary and usher.*
9. *Salaries of judge, secretary, and usher.*
10. *Judge of Court of Probate to be also judge of the Admiralty Court on the next vacancy.*
11. *As to increase of salary upon union of the two offices.*
12. *Retiring pensions of judges.*
13. *District registries to be established, as in Schedule (A.)*

14. *Appointment of officers of the Court of Probate.*
15. *As to appointment of the first officers of the principal registry.*
16. *Clerks and officers of Prerogative Court to be transferred to like offices in Court of Probate.*
17. *Existing diocesan registrars to be entitled to be appointed district registrars at the same places.*
18. *As to appointment to offices. Salaries of officers.*
19. *Tenure of office of officers.*
20. *Qualification of registrars and district registrars.*
21. *Officers of the court to execute their offices in person. Registrars, &c. not to act as proctors, &c.*
22. *Power to judge to cause seals of the court to be provided.*
23. *The court to have throughout all England the same powers as the Prerogative Court within the province of Canterbury. Suits for legacies or distribution not to be entertained.*
24. *Power to examine witnesses. As to production of deeds, &c.*
25. *Powers of the court to enforce orders.*
26. *Order to produce any instrument purporting to be testamentary.*
27. *Registrars, &c. to have power to administer oaths. Power to appoint, also, commissioners to administer oaths, &c.*
28. *Penalty on forging or counterfeiting seals or signatures of officers.*
29. *Practice of the court.*
30. *Rules and orders to be made for regulating the procedure of the court.*
31. *Mode of taking evidence in contentious matters.*
32. *Court may issue commissions or give orders for examination of witnesses abroad, or who are unable to attend.*
33. *Rules of evidence in common-law courts to be observed.*
34. *Common-law judges may sit, on request of judge of court.*
35. *Court may cause questions of fact to be tried by a jury before itself, or direct an issue to a court of law.*
36. *Powers of the court for the trial of questions by a jury.*
37. *Question to be stated, and jury sworn to try it. Court, on trial, to have the same authority as a judge at Nisi Prius.*
38. *Court may direct where issues shall be tried.*
39. *Appeal to the House of Lords.*
40. *Advocates admitted to practise. Barristers may practise in contentious causes.*
41. *Advocates admitted to practise as barristers.*
42. *Proctors admitted to practise.*
43. *Admission of registrars and proctors as solicitors.*
44. *Admission of articled clerks to proctors as solicitors.*
45. *Practitioners.*
46. *Probates and administration may be granted in common form by district registrars, if it shall appear by affidavit that the testator, &c. had a fixed place of abode.*
47. *Affidavit to be conclusive for authorising grant of probate.*
48. *District registrars not to make grants where there is contention, &c.*
49. *As to transmission of notice of application for grants of probate, &c. to district registrar.*
50. *District registrar, in case of doubt as to grant, to take the directions of the judge.*
51. *District registrars to transmit lists of probates and administrations, and copies of wills.*
52. *District registrars to preserve original wills.*
53. *As to caveats.*
54. *Where personalty is under 200l., and real property is under 300l., county court to have jurisdiction.*
55. *Registrar of county court to transmit certificate of decree for grant or revocation of probate.*
56. *The judge of the county court to decide causes and enforce judgments as in other cases.*
57. *Affidavit of the facts giving the county court jurisdiction to be conclusive, unless disproved while the matter is pending.*
58. *As to appeals from county court.*
59. *Not obligatory to apply for probate, &c. to district registries or county court, but may in every case be made to Court of Probate.*
60. *Rules and orders for regulating the procedure of county courts under the act to be made by the judges now having authority for the like purpose.*
61. *Where a will affecting real estate is proved in solemn form, or is the subject of a contentious proceeding, the heir and persons interested in the real estate to be cited.*
62. *Where the will is proved in solemn form, or its validity otherwise decided on, the decree of the court to be binding on the persons interested in the real estate.*
63. *Heir in certain cases not to be cited, and where not cited not to be affected by probate.*
64. *Probate or office copy to be evidence of the will in suits concerning real estate, save where the validity of the will is put in issue.*
65. *As to costs of proof of will.*
66. *Place of deposit of original wills.*
67. *Judge to cause calendars to be made from time to time in the principal registry, and to be printed.*
68. *Registrar to transmit printed copies to certain offices.*
69. *Official copy of whole or part of will may be obtained.*
70. *Administration pendente lite.*
71. *Receiver of real estate pendente lite.*
72. *Remuneration to administrators pendente lite and receivers.*
73. *Power as to appointment of administrator.*
74. *38 Geo. 3, c. 87, extended to administrators.*
75. *After grant of administration no person to have power to sue as an executor.*
76. *Revocation of temporary grants not to prejudice actions or suits.*
77. *Payments under revoked probates or administration to be valid.*
78. *Persons, &c. making payment upon probates granted for estate of deceased person to be indemnified.*
79. *Rights of an executor renouncing probate to cease as if he had not been named in the will.*
80. *Sureties to administration bonds.*
81. *Persons to whom grant of administrations shall be committed shall give bond.*
82. *Penalty on bond.*
83. *Power of court to assign bond.*
84. *Pending suits transferred to the Court of Probate. Not to apply to appeals pending before her Majesty in Council.*
85. *Power to judges whose jurisdiction is determined to deliver written judgments.*
86. *Void and voidable probates and administrations.*
87. *Probates and administrations granted before this act comes into operation.*
88. *Probate or administration may be granted of personal estate not affected by the former grants.*
89. *Judges of present ecclesiastical courts and others to transmit all wills, &c. to the registry.*
90. *Penalty for default.*
91. *As to depositories for safe custody of the wills of living persons.*
92. *This act not to affect the stamp duties on probates and administrations.*
93. *The registrars to deliver copies of wills, &c. to the Commissioners of Inland Revenue.*
94. *Sects. 8 and 9 of the 53 Geo. 3, c. 127, repealed in part as to the Court of Probate.*
95. *Fees to be taken by officers of the court and by officers of the county courts.*
96. *Taxation of costs.*
97. *Fees not to be paid in money, but by stamps.*
98. *Provisions of acts relating to stamps to be applicable to stamps for collecting fees.*
99. *No document to be received or used unless stamped.*
100. *Officers of the court may be dismissed for fraud or wilful neglect in relation to stamps.*
101. *Salary of judge and compensations to be charged on the Consolidated Fund.*

102. *Salaries and expenses not charged on the Consolidated Fund to be paid out of monies to be provided by Parliament.*
103. *Compensation to registrars, &c. of existing courts.*
104. *Persons receiving compensation to continue to discharge the remaining duties of their offices.*
105. *Compensation to proctors.*
106. *Compensation to proctors in partnership.*
107. *For the protection of the interests of Viscount Canterbury.* 2 & 3 *Will.* 4, *c.* 109.
108. *The registry of the Prerogative Court of Canterbury to vest in the registrars of the court.*
109. *Compensation to Sir John Dodson in case he be not appointed judge of the Court of Probate.*
110. *Establishments in district registries.*
111. *Fees payable to district registrars. District registrars may be paid by salaries instead of fees.*
112. *Compensation to clerical surrogates, &c.*
113. *Persons receiving compensation to be liable to be called upon to fill offices, &c.*
114. *Publication of accounts.*
115. *Judge, if a Privy Councillor, to be a member of the Judicial Committee.*
116. *College of Doctors of Law may let, sell, &c. their real and personal estate, and lay out monies in purchase of other estates, &c.*
117. *College may surrender their charter, and upon such surrender shall be dissolved.*
118. *Treasury to provide the buildings for registries, &c.*
119. *Rules and orders to be laid before Parliament.*

Whereas it is expedient that all jurisdiction in relation to the grant and revocation of probates of wills and letters of administration in England should be exercised, in the name of her Majesty, by one court: be it enacted &c. as follows:—

Sect. 1. This act (except where otherwise specially provided) shall come into operation on such day, not sooner than the 1st day of January, 1858, as her Majesty shall by Order in Council appoint, provided that such order shall be made one month at least previously to the day so to be appointed.

2. In the construction of this act, unless the context be inconsistent with the meaning hereby assigned—

"Will" shall comprehend "testament" and all other testamentary instruments of which probate may now be granted:

"Administration" shall comprehend all letters of administration of the effects of deceased persons, whether with or without the will annexed, and whether granted for general, special, or limited purposes:

"Matters and causes testamentary" shall comprehend all matters and causes relating to the grant and revocation of probate of wills or of administration:

"Common form business" shall mean the business of obtaining probate and administration where there is no contention as to the right thereto, including the passing of probates and administrations through the Court of Probate in contentious cases when the contest is terminated, and all business of a non-contentious nature to be taken in the court in matters of testacy and intestacy, not being proceedings in any suit, and also the business of lodging caveats against the grant of probate or administration.

3. The voluntary and contentious jurisdiction and authority of all ecclesiastical, royal peculiar, peculiar, manorial, and other courts and persons in England, now having jurisdiction or authority to grant or revoke probate of wills or letters of administration of the effects of deceased persons, shall in respect of such matters absolutely cease; and no jurisdiction or authority in relation to any matters or causes testamentary, or to any matter arising out of or connected with the grant or revocation of probate or administration, shall belong to or be exercised by any such court or person.

4. The voluntary and contentious jurisdiction and authority in relation to the granting or revoking probate of wills and letters of administration of the effects of deceased persons now vested in, or which can be exercised by, any court or person in England, together with full authority to hear and determine all questions relating to matters and causes testamentary, shall belong to and be vested in her Majesty, and shall, except as hereinafter mentioned, be exercised in the name of her Majesty in a court to be called "the Court of Probate," and to hold its ordinary sittings and, to have its principal registry at such place or places in London or Middlesex as her Majesty in Council shall from time to time appoint.

5. There shall be one judge of her Majesty's Court of Probate; and it shall be lawful for her Majesty from time to time, by letters-patent under the Great Seal of the United Kingdom, to appoint a person, being or having been an advocate of ten years' standing, or a barrister-at-law of fifteen years' standing, to be such judge.

6. The judge of the Court of Probate shall hold his office during good behaviour, provided that it shall be lawful for her Majesty to remove any such judge from his office upon an address of both Houses of Parliament.

7. Every judge of the Court of Probate shall, before executing any of the duties of his office, take the following oath, which the Lord Chancellor or the Master of the Rolls for the time being is hereby respectively authorised and required to administer:

> "I, A. B., do solemnly and sincerely promise and swear, that I will duly and faithfully, and to the best of my skill and power, execute the office of judge of the Court of Probate.
> "So help me God."

8. The judge shall have rank and precedence with the puisne judges of her Majesty's superior courts of common law at Westminster, according to the date of his appointment, and he shall have a secretary and usher, to be from time to time appointed and removed by him at his pleasure.

9. There shall be paid to the judge the net yearly salary of 4000*l*., and to his secretary the net yearly salary of 300*l*., and to his usher the net yearly salary of 150*l*.

10. Upon the next vacancy in the office of judge of the High Court of Admiralty of England it shall be lawful for her Majesty, if she so think fit, to appoint the person then being judge of the Court of Probate to be also judge of the said Court of Admiralty; or in case the office of judge of the Court of Probate become vacant before the office of judge of the Court of Admiralty, the judge of the Court of Admiralty may, with his consent, be appointed to and hold also the office of judge of the Court of Probate; and after the union of the said two offices they shall be thenceforth held by the same person.

11. From and after the union under this act of the two offices of judge of the Court of Probate and judge of the Court of Admiralty in the same person the said yearly salary of 4000*l*. payable under this act shall be increased to 5000*l*., and the salary now payable to the judge of the Court of Admiralty shall cease.

12. Her Majesty, by letters-patent under the Great Seal of the United Kingdom, may grant unto any person executing the office of judge of her Majesty's Court of Probate an annuity, not exceeding 2000*l*., or if such person be also executing the office of judge of the said Court of Admiralty, not exceeding 3500*l*., to commence immediately after the day when the person to whom such annuity shall be granted shall resign the said office or offices, and to continue during his natural life: provided that her Majesty may, in and by such letters-patent, limit the duration of payment of such annuity, or any part thereof, to such periods of time during the natural life of such person in which he shall not exercise any office of profit under her Majesty, so that such annuity, together with the salary and profits of such other office, shall together not exceed in the whole the said sum of 2000*l*. or 3500*l*., as the case may be: provided also, that no annuity granted to any person having executed the office of judge under this act, except the present judge of the Prerogative Court, shall be valid unless such person shall have held such office for the period of fifteen years, or have held such office and any of the offices of judge in any of the superior courts of law or equity, or the High Court of Admiralty, for periods amounting together to fifteen years, or shall be afflicted with some permanent infirmity disabling him from the due execution of his office, which shall be distinctly recited in the said grant.

13. There shall be established for each of the districts specified in Schedule (A.) to this act, and at the places respectively mentioned in such schedule, a public registry attached to and under the control of the Court of Probate, hereinafter referred to as "the District Registry."

14. There shall be three registrars, two record keepers, and one sealer for the principal registry of the Court of Probate, and there shall be one district registrar for each district registry, hereinafter referred to as the district registrar, and there

shall be so many clerks and other officers for the court and the principal registry as the judge of the court, with the sanction of the Commissioners of her Majesty's Treasury, may from time to time think fit: provided, that if at any time it appear to her Majesty in Council that the duties of the registrars of the principal registry of the Court of Probate can be performed by two registrars, it shall be lawful for her Majesty by Order in Council to direct that the number of registrars for such principal registry be reduced accordingly.

15. Charles Dyneley, Esq., John Iggulden, Esq., and William F. Gostling, Esq., the present deputy registrars of the Prerogative Court of Canterbury, shall, if willing to accept the office, be the first registrars of the principal registry of the Court of Probate; Joseph Todd and John Smith, the present record keepers of the said Prerogative Court, shall, if willing to accept the office, be the first record keepers at the said principal registry; and William John Berry, the present sealer of the said Prerogative Court, shall, if willing to accept the office, be the first sealer at the said principal registry; and George Jarvis Foster, clerk of the papers in the said Prerogative Court, shall, if willing to accept the office, be the first clerk of papers at the said principal registry.

16. The other clerks and officers now employed in the said Prerogative Court shall be transferred to such situations in the Court of Probate, and the principal registry thereof, as the Lord Chancellor may in that behalf direct, so that their duties may be such as, in the opinion of the said Lord Chancellor, may be as nearly as possible similar to those which they have heretofore discharged in the said Prerogative Court: provided always, that no such clerk or other officer shall be so transferred whom the said Lord Chancellor shall consider to be, from age, infirmity, or other cause, incompetent to the discharge of his duties.

17. The registrar or deputy registrar (as the case may be) now executing in person the duties of registrar of a diocesan or other court exercising testamentary jurisdiction at any place at which a district registry is to be established under this act, or where there is more than one such registrar or deputy registrar so acting, such one of them as the judge shall select, shall be appointed the first district registrar for such district, save where the judge shall consider such registrar or deputy registrar, or all such registrars or deputy registrars if more than one, to be, from age, infirmity, or other cause, incompetent to the discharge of the duties of district registrar: provided, that where there is now more than one such registrar or deputy registrar competent to the discharge of the duties, the judge may appoint them, or more than one of them, to hold such office of district registrar jointly, with benefit of survivorship.

18. The registrars, district registrars, and other officers of the Court of Probate, except as herein provided, shall be appointed by the judge: there shall be paid to the several officers mentioned in Schedule (B.) to this act the several salaries set opposite to their respective titles in the same schedule; and the said district registrars shall, for the performance of their duties under this act, including the services of any clerks they may employ, be entitled to take, in respect of the business in their respective district registries, such fees as shall be fixed as hereinafter provided; and, except as aforesaid, there shall be paid to the several clerks and other officers appointed under this act such salaries or other remuneration as the judge, with the consent of the Commissioners of her Majesty's Treasury, shall from time to time in each case direct.

19. The registrars and district registrars shall hold their offices during good behaviour, subject to be removed by order of the Lord Chancellor for some reasonable cause, to be in such order expressed; and the other officers of the court may be removed by the judge, with the sanction of the Lord Chancellor.

20. No person shall be appointed a registrar or district registrar who shall not be or have been an advocate, barrister-at-law, proctor, solicitor, or attorney-at-law, unless at the time of the passing of this act he is performing in person the duties of registrar or deputy registrar of some ecclesiastical court in England, or is acting as articled clerk or paid clerk to a proctor in Doctors' Commons, or as officer or clerk in the office of the said Prerogative Court, or of the Prerogative Court of York, or of any diocesan court.

21. All registrars, district registrars, officers, and clerks of the Court of Probate shall execute their respective offices in person, and not by deputy; and no registrar of the principal registry of the court, nor any officer or clerk in the principal registry thereof, shall during the time of his holding such office directly or indirectly practise as an advocate, barrister, proctor, solicitor, or attorney, or receive or participate in the fees of any other person so practising.

22. The judge shall cause to be made seals for the Court of Probate, that is to say, one seal to be used in its principal registry, and separate seals to be used in the several district registries, and may cause the same respectively from time to time to be broken, altered, and renewed, at his discretion; and all probates, letters of administration, orders, and other instruments, and exemplifications and copies thereof respectively, purporting to be sealed with any seal of the Court of Probate, shall in all parts of the United Kingdom be received in evidence, without further proof thereof.

23. The Court of Probate shall be a court of record, and such court shall have the same powers, and its grants and orders shall have the same effect throughout all England, and in relation to the personal estate in all parts of England of deceased persons, as the Prerogative Court of the Archbishop of Canterbury and its grants and orders respectively now have in the province of Canterbury, or in the parts of such province within its jurisdiction, and in relation to those matters and causes testamentary and those effects of deceased persons which are within the jurisdiction of the said Prerogative Court; and all duties which, by statute or otherwise, are imposed on or should be performed by ordinaries generally, or on or by the said Prerogative Court, in respect of probates, administrations, or matters or causes testamentary within their respective jurisdictions, shall be performed by the Court of Probate: provided, that no suits for legacies, or suits for the distribution of residues, shall be entertained by the court, or by any court or person whose jurisdiction as to matters and causes testamentary is hereby abolished.

24. The Court of Probate may require the attendance of any party in person, or of any person whom it may think fit to examine or cause to be examined in any suit or other proceeding in respect of matters or causes testamentary, and may examine or cause to be examined upon oath or affirmation, as the case may require, parties and witnesses by word of mouth, and may, either before or after, or with or without such examination, cause them, or any of them, to be examined on interrogatories, or receive their or any of their affidavits or solemn affirmations, as the case may be; and the court may by writ require such attendance, and order to be produced before itself or otherwise any deeds, evidences, or writings, in the same form, as nearly as may be, as that in which a writ of subpoena ad testificandum, or of subpoena duces tecum, is now issued by any of her Majesty's superior courts of law at Westminster; and every person disobeying any such writ shall be considered as in contempt of the court, and also be liable to forfeit a sum not exceeding 100*l*.

25. The Court of Probate shall have the like powers, jurisdiction, and authority for enforcing the attendance of persons required by it as aforesaid, and for punishing persons failing, neglecting, or refusing to produce deeds, evidences, or writings, or refusing to appear or to be sworn, or make affirmation or declaration, or to give evidence, or guilty of contempt, and generally for enforcing all orders, decrees, and judgments made or given by the court under this act, and otherwise in relation to the matters to be inquired into and done by or under the orders of the court under this act, as are by law vested in the High Court of Chancery for such purposes in relation to any suit or matter depending in such court.

26. The Court of Probate may, on motion or petition, or otherwise, in a summary way, whether any suit or other proceeding shall or shall not be pending in the court with respect to any probate or administration, order any person to produce and bring into the principal or any district registry, or otherwise, as the court may direct, any paper or writing, being or purporting to be testamentary, which may be shewn to be in the possession or under the control of such person; and if it be not shewn that any such paper or writing is in the possession or under the control of such person, but it shall appear that there are reasonable grounds for believing that he has the knowledge of any such paper or writing, the court may direct such person to attend for the purpose of being examined in open court, or upon interrogatories respecting the same, and such person shall be bound to answer such questions or interrogatories, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like process of contempt in case of default in not attending, or in not answer-

ing such questions or interrogatories, or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit in the court, and had made such default; and the costs of any such motion, petition, or other proceeding shall be in the discretion of the court.

27. The registrars and district registrars shall respectively have full power to administer oaths; and all persons who at the commencement of this act shall be acting as surrogates of any ecclesiastical court, and any other persons whom the judge shall under the seal of the court from time to time appoint, shall respectively have full power to administer oaths and perform such other duties in reference to matters and causes testamentary as may be assigned to them from time to time by the rules and orders under this act; and the persons so appointed shall be styled "Commissioners of her Majesty's Court of Probate:" provided, that any party required to be examined, or any person called as a witness or required or desiring to make an affidavit or deposition under or for the purposes of this act, shall be permitted to make his solemn affirmation or declaration, instead of being sworn, in the circumstances and manner in which a person called as a witness or desiring to make an affidavit or deposition would be permitted so to do under the Common-law Procedure Act, 1854, in cases within the provisions of that act; and any person who shall wilfully give false evidence, or who shall wilfully swear, affirm, or declare falsely in any affidavit or deposition before the Court of Probate, or before any registrar, district registrar, or commissioner of the court, shall be liable to the penalties and consequences of wilful and corrupt perjury.

28. If any person forge the signature of any registrar, district registrar, or commissioner for taking oaths, or forge or counterfeit any seal of the Court of Probate, or knowingly use or concur in using any such forged or counterfeit signature or seal, or tender in evidence any document with a false or counterfeit signature of such registrar, district registrar, or commissioner, or with a false or counterfeit seal, knowing the same signature or seal to be false or counterfeit, every such person shall be guilty of felony, and shall upon conviction be liable to penal servitude for the term of his life, or any term not less than seven years, or to imprisonment for any term not exceeding three years, with or without hard labour.

29. The practice of the Court of Probate shall, except where otherwise provided by this act, or by the rules or orders to be from time to time made under this act, be, so far as the circumstances of the case will admit, according to the present practice in the Prerogative Court.

30. And to the intent and end that the procedure and practice of the court may be of the most simple and expeditious character, it shall be lawful for the Lord Chancellor, at any time after the passing of this act, with the advice and assistance of the Lord Chief Justice of the Court of Queen's Bench, or any one of the judges of the superior courts of law to be by such Chief Justice named in that behalf, and of the judge of the said Prerogative Court, to make rules and orders, to take effect when this act shall come into operation, for regulating the procedure and practice of the court, and the duties of the registrars, district registrars, and other officers thereof, and for determining what shall be deemed contentious and what shall be deemed non-contentious business, and, subject to the express provisions of this act, for fixing and regulating the time and manner of appealing from the decisions of the said court, and generally for carrying the provisions of this act into effect; and after the time when this act shall come into operation it shall be lawful for the judge of the Court of Probate from time to time, with the concurrence of the Lord Chancellor and the said Lord Chief Justice, or any one of the judges of the superior courts of law to be by such Chief Justice named in this behalf, to repeal, amend, add to, or alter any such rules and orders as to him, with such concurrence as aforesaid, may seem fit.

31. Subject to the regulations to be established by such rules and orders as aforesaid, the witnesses, and where necessary the parties, in all contentious matters, where their attendance can be had, shall be examined orally by or before the judge in open court: provided always, that, subject to any such regulations as aforesaid, the parties shall be at liberty to verify their respective cases, in whole or in part, by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party, be subject to be cross-examined by or on behalf of such opposite party orally in open court as aforesaid, and after such cross-examination, may be re-examined orally in open court as aforesaid by or on behalf of the party by whom such affidavit was filed.

32. Provided, that where a witness in any such matter is out of the jurisdiction of the court, or where, by reason of his illness or otherwise, the court shall not think fit to enforce the attendance of the witness in open court, it shall be lawful for the court to order a commission to issue for the examination of such witness on oath, upon interrogatories or otherwise, or, if the witness be within the jurisdiction of the court, to order the examination of such witness on oath, upon interrogatories or otherwise, before any officer of the said court, or other person to be named in such order for the purpose; and all the powers given to the courts of law at Westminster by the acts of the 13 Geo. 3, c. 63, and the 1 Will. 4, c. 22, for enabling the courts of law at Westminster to issue commissions and give orders for the examination of witnesses in actions depending in such courts, and to enforce such examination, and all the provisions of the said acts and of any other acts for enforcing or otherwise applicable to such examination and the witnesses examined, shall extend and be applicable to the said Court of Probate and to the examination of witnesses under the commissions and orders of the said court, and to the witnesses examined, as if such court were one of the courts of law at Westminster, and the matter before it were an action pending in such court.

33. The rules of evidence observed in the superior courts of common law at Westminster shall be applicable to and observed in the trial of all questions of fact in the Court of Probate.

34. It shall be lawful for the judge of the Court of Probate to sit, with the assistance of any judge or judges of any of the superior courts of law at Westminster, who, upon the request of the judge of the Court of Probate, may find it convenient to attend for that purpose.

35. It shall be lawful for the Court of Probate to cause any question of fact arising in any suit or proceeding under this act to be tried by a special or common jury before the court itself, or by means of an issue to be directed to any of the superior courts of common law, in the same manner as an issue may now be directed by the Court of Chancery; and such question shall be so tried by a jury in any case where an heir-at-law, cited or otherwise made party to the suit or proceeding, makes application to the Court of Probate for that purpose; and in any other case where all the parties to the suit or proceeding concur in such an application, and where any party or parties other than such heir-at-law make a like application, (the other party or parties not concurring therein), and the court shall refuse to cause such question to be tried by a jury, such refusal of the court shall be subject to appeal, as herein provided.

36. When the court shall order a question of fact to be tried before itself by a jury, the court may make all such rules and orders upon the sheriff or any other person for procuring the attendance of a special or common jury for the trial of such question as may now be made by any of the superior courts of common law at Westminster, and may also make any other orders which to such court may seem requisite; and every such jury shall consist of persons possessing the qualifications, and shall be struck, summoned, balloted for, and called in like manner as if such jury were a jury for the trial of any cause in any of the said superior courts; and every juryman so summoned shall be entitled to the same rights, and subject to the same duties and liabilities, as if he had been duly summoned for the trial of any such cause in any of the said superior courts; and every party to any such proceeding shall be entitled to the same rights, as to challenge and otherwise, as if he were a party to any such cause; and generally for all purposes of or auxiliary to the trial of questions of fact by a jury before the court itself, and in respect of new trials thereof, and also for all purposes in relation to or consequential upon the direction of issues, the Court of Probate shall have the same jurisdiction, powers, and authority in all respects as belong to any superior court of common law, or to any judge thereof, or to the High Court of Chancery, or any judge thereof, for the like purposes.

37. When any such question shall be so ordered to be tried by a jury before the court itself, such question shall be reduced into writing in such form as the court shall direct, and at the trial the jury shall be sworn to try the said question, and a true verdict to give thereon, according to the evidence; and upon every such trial the Court of Probate shall have the same

powers, jurisdiction, and authority as belong to any judge of any of the said superior courts sitting at Nisi Prius.

38. Where the Court of Probate directs an issue, it shall be lawful for such court to direct such issue to be tried either before a judge of assize in any county, or at the sittings for the trial of causes in London or Middlesex, and either by a special or common jury, in like manner as is now done by the Court of Chancery.

39. Any person considering himself aggrieved by any final or interlocutory decree or order of the Court of Probate may appeal therefrom to the House of Lords: provided always, that no appeal from any interlocutory order of the Court of Probate shall be made without leave of the Court of Probate first obtained; but on the hearing of an appeal from any final decree, all interlocutory orders complained of shall be considered as under appeal, as well as the final decree.

40. All persons who at the time of the passing of this act have been admitted advocates in any of the ecclesiastical courts shall be entitled to practise as advocates or counsel in all matters and causes whatsoever in the Court of Probate; and all serjeants and barristers-at-law shall be entitled to practise as advocates or counsel in all contentious matters and causes in the said court; and such persons who have been so admitted advocates and serjeants and barristers-at-law shall have respectively the same rank and precedence which they now have before the Judicial Committee of the Privy Council, unless and until her Majesty shall otherwise order.

41. All persons who at the time of the passing of this act have been admitted as advocates as aforesaid shall be entitled to practise as counsel in any of her Majesty's courts of law or equity in England, with the same eligibility to appointments, under acts of Parliament or otherwise, as if they had respectively been duly called to the degree of barrister-at-law on the days on which they respectively were so admitted as advocates, and with the same rank and precedence which they now have before the said Judicial Committee, unless and until her Majesty shall otherwise order.

42. Every person who at the time of the passing of this act is actually admitted and practising as a proctor in the courts in Doctors' Commons, or in the Prerogative Court of York, or in any diocesan court, or in any archidiaconal court, having previously duly served under articles of clerkship either to an attorney or proctor, may, upon his application, at any time within one year after the passing of this act, be admitted a proctor of the Court of Probate, without payment of any fee or stamp duty.

43. Every person who, at the time of the commencement of this act, is acting as registrar or deputy registrar of any ecclesiastical court, or is actually admitted and practising as a proctor in the courts in Doctors' Commons, or in any ecclesiastical court in England or Wales, may, within one year after the passing of this act, be admitted, without the payment of any stamp duty, fee, charge, or gratuity whatsoever, as a solicitor of the High Court of Chancery, upon the production of his appointment or admission as such registrar, deputy registrar, or proctor, or an official certificate thereof; and upon the production of an official certificate that such appointment or admission continued in force at the time of the passing of this act, and upon signing the roll of solicitors of the High Court of Chancery, but not otherwise, such person shall be entitled to be admitted as a solicitor of such court, and to be afterwards in like manner admitted and inrolled as an attorney of her Majesty's superior courts.

44. Every person who, at the time of the commencement of this act, has served or is actually serving as an articled clerk to a proctor entitled to take such articled clerk, and who has not been admitted as a proctor, shall be entitled to be admitted as a solicitor of the High Court of Chancery, in the same manner, and subject to the same rules and regulations, and upon the same conditions, as if he had before the commencement of this act been articled to a solicitor or to an attorney-at-law; and such admission shall entitle such articled clerk so admitted as a solicitor to be afterwards in like manner admitted and inrolled as an attorney of her Majesty's superior courts: provided, that if any such proctor to whom any such clerk is now articled shall retire from practice after the passing of this act, he shall and is hereby required to transfer such articled clerk to some other proctor, or to a solicitor, or to an attorney-at-law, for the unexpired term of his articles of clerkship; provided that the court shall at any time have the same power to transfer such clerk, during the unexpired term of his articles of clerkship, to any other proctor, or to a solicitor, or to an attorney-at-law, as the judge of the Prerogative Court now has in respect to clerks articled to proctors practising in the Court of Arches.

45. All solicitors and attornies-at-law may practise in the Court of Probate, and the laws and statutes now in force concerning solicitors and attornies shall extend to solicitors and attornies practising in the said court; and the commissioners for taking oaths in the High Court of Chancery shall be commissioners for taking oaths in the Court of Probate.

46. Probate of a will or letters of administration may, upon application for that purpose to the district registry, be granted in common form by the district registrar in the name of the Court of Probate, and under the seal appointed to be used in such district registry, if it shall appear by affidavit of the person, or some or one of the persons, applying for the same, that the testator or intestate, as the case may be, at the time of his death, had a fixed place of abode within the district in which the application is made, such place of abode being stated in the affidavit, and such probate or letters of administration shall have effect over the personal estate of the deceased in all parts of England accordingly.

47. Such affidavit shall be conclusive for the purpose of authorising the grant, by the district registrar, of probate or administration; and no such grant of probate or administration shall be liable to be recalled, revoked, or otherwise impeached by reason that the testator or intestate had no fixed place of abode within the district at the time of his death; and every probate and administration granted by any such district registrar shall effectually discharge and protect all persons paying to or dealing with any executor or administrator thereunder, notwithstanding the want of or defect in such affidavit, as is hereby required.

48. The district registrar shall not grant probate or administration in any case in which there is contention as to the grant until such contention is terminated or disposed of by decree or otherwise, or in which it otherwise appears to him that probate or administration ought not to be granted in common form.

49. Notice of every application to any district registrar for the grant of probate or administration shall be transmitted by such district registrar to the registrars of the principal registry by the next post after such application shall have been made; and such notice shall specify the name and description, or addition, (if any), of the testator or intestate, the time of his death, and the place of his abode at his decease, as stated in the affidavit made in support of such application, and the name of the person by whom the application has been made, and such other particulars as may be directed by rules or orders under this act; and no probate or administration shall be granted in pursuance of such application until such district registrar shall have received a certificate, under the hand of one of the registrars of the principal registry, that no other application appears to have been made in respect of the goods of the same deceased person, which certificate the said registrar of the principal registry shall forward as soon as may be to the district registrar: all such notices in respect of applications in the district registries shall be filed and kept in the principal registry, and the registrars of the principal registry shall, with reference to every such notice, examine all notices of such applications which may have been received from the several other district registries, and the applications which may have been made for grants of probate or administration at the principal registry, so far as it may appear necessary to ascertain whether or no application for probate or administration, in respect of the goods of the same deceased person, may have been made in more than one registry, and shall communicate with the district registrars as occasion may require in relation to such applications.

50. In every case where it appears to a district registrar that it is doubtful whether the probate or letters of administration which may be applied for should or should not be granted, or where any question arises in relation to the grant, or application for the grant, of any probate or administration, the district registrar shall transmit a statement of the matter in question to the registrars of the Court of Probate, who shall obtain the directions of the judge in relation thereto, and the judge may direct the district registrar to proceed in the matter of the application according to such instructions as to the judge may seem necessary, or may forbid any further proceeding by the district registrar in relation to the matter of such application, leaving the party applying for the grant in question to make

application to the Court of Probate through its principal registry, or, if the case be within its jurisdiction, to a county court.

51. On the first Thursday of every month, or oftener if required by any rules or orders to be made in that behalf, every district registrar shall transmit to the registrars of the principal registry a list, in such form and containing such particulars as may be from time to time required by the Court of Probate, or by any rules or orders under this act, of the grants of probate and administration made by such district registrar up to the last preceding Saturday, and not included in a previous return, and also a copy, certified by the district registrar to be a correct copy, of every will to which any such probate or administration relates.

52. Every district registrar shall file and preserve all original wills, of which probate or letters of administration with the will annexed may be granted by him, in the public registry of the district, subject to such regulations as the judge of the Court of Probate may from time to time make in relation to the due preservation thereof, and the convenient inspection of the same.

53. Caveats against the grant of probates or administrations may be lodged in the principal registry or in any district registry, and (subject to any rules or orders under this act) the practice and procedure under such caveats in the Court of Probate shall, as near as may be, correspond with the practice and procedure under caveats now in use in the Prerogative Court of Canterbury; and immediately upon a caveat being lodged in any district registry, the district registrar shall send a copy thereof to the registrars to be entered among the caveats in the principal registry; and immediately upon a caveat being entered in the principal registry, notice thereof shall be given to the district registrar of the district, if any, in which it is alleged the deceased resided at the time of his decease, and to any other district registrar to whom it may appear to the registrars of the principal registry expedient to transmit the same.

54. Where it shall appear by affidavit of the person or some or one of the persons applying for probate or letters of administration that the testator or intestate had at the time of his death his fixed place of abode in one of the districts specified in Schedule (A.) to this act, and that the personal estate in respect of which such probate or letters of administration should be granted under this act, exclusive of what the deceased shall have been possessed of or entitled to as a trustee, and not beneficially, but without deducting anything on account of the debts due and owing from the deceased, is under the value of 200*l.*, and that the deceased at the time of his death was not seised or entitled beneficially of or to any real estate, or that the value of the real estate of or to which he was seised or entitled beneficially at the time of his death was under the value of 300*l.*, the judge of the county court having jurisdiction in the place in which it shall be sworn that the deceased had at the time of his death his fixed place of abode shall have the contentious jurisdiction and authority of the Court of Probate in respect of questions as to the grant and revocation of probate of the will or letters of administration of the effects of such deceased person, in case there be any contention in relation thereto.

55. On a decree being made by a judge of a county court for the grant or revocation of a probate or administration in any such cause, the registrar of the county court shall transmit to the district registrar of the district in which it shall have been sworn that the deceased had at the time of his decease his fixed place of abode a certificate under the seal of the county court of such decree having been made, and thereupon, on the application of the party or parties in favour of whom such decree shall have been made, a probate or administration in compliance with such decree shall be issued from such district registry; or, as the case may require, the probate or letters of administration theretofore granted shall be recalled or varied by the district registrar, according to the effect of such decree.

56. The judge of any county court before whom any disputed question shall be raised relating to matters and causes testamentary under this act shall, subject to the rules and orders under this act, have all the jurisdiction, power, and authority to decide the same, and enforce judgment therein, and to enforce orders in relation thereto, as if the same had been an ordinary action in the county court.

57. The affidavit as to the place of abode and state of the property of a testator or intestate which is to give contentious jurisdiction to the judge of a county court under the previous provisions shall, except as hereinafter provided, be conclusive for the purpose of authorising the exercise of such jurisdiction, and the grant or revocation of probate or administration, in compliance with the decree of such judge; and no such grant of probate or administration shall be liable to be recalled, revoked, or otherwise impeached by reason that the testator or intestate had no fixed place of abode within the jurisdiction of such judge, or within any of the said districts, at the time of his death, or by reason that the personal estate, sworn to be under the value of 200*l.*, did in fact amount to or exceed that value, or that the value of the real estate of or to which the deceased was seised or entitled beneficially at the time of his death amounted to or exceeded 300*l.*: provided, that where it shall be shewn to the judge of a county court before whom any matter is pending under this act that the place of abode or state of the property of the testator or intestate in respect of whose will or estate he may have been applied to for grant or revocation of probate or administration has not been correctly stated in the affidavit, and if correctly stated would not have authorised him to exercise such contentious jurisdiction, he shall stay all further proceedings in his court in the matter, leaving any party to apply to the Court of Probate for such grant or revocation, and making such order as to costs of the proceedings before him as he may think just.

58. Any party who shall be dissatisfied with the determination of the judge of the county court in point of law, or upon the admission or rejection of any evidence in any matter or cause under this act, may appeal from the same to the Court of Probate, in such manner and subject to such regulations as may be provided by the rules and orders to be made under this act, and the decision of the Court of Probate on such appeal shall be final.

59. It shall not be obligatory on any person to apply for probate or administration to any district registry, or through any county court, but in every case such application may be made through the principal registry of the Court of Probate, wherever the testator or intestate may at the time of his death have had his fixed place of abode: provided, that where, in any contentious matter arising out of any such application, it is shewn to the Court of Probate that the state of the property and place of abode of the deceased were such as to give contentious jurisdiction to the judge of a county court, the Court of Probate may send the cause to such county court, and the judge thereof shall proceed therein as if such application and cause had been made to and arisen in his court in the first instance.

60. For regulating the procedure and practice of the county courts, and the judges, registrars, and officers thereof, in relation to their jurisdiction and proceedings under this act, rules and orders may be from time to time framed, amended, and certified by the county court judges appointed for the time being to frame rules and orders for regulating the practice of the county courts under the act of the session holden in the 19 & 20 Vict. c. 108, and shall be subject to be allowed or disallowed or altered, and shall be in force from the day named for that purpose by the Lord Chancellor, as in the said act is provided in relation to other rules and orders regulating the practice of the same courts; and for establishing rules and orders to be in force when this act comes into operation, the power given by this enactment shall be exercised as soon as conveniently may be after the passing of this act.

61. Where proceedings are taken under this act for proving a will in solemn form, or for revoking the probate of a will on the ground of the invalidity thereof, or where in any other contentious cause or matter under this act the validity of a will is disputed, unless in the several cases aforesaid the will affects only personal estate, the heir-at-law, devisees, and other persons having or pretending interest in the real estate affected by the will, shall, subject to the provisions of this act, and to the rules and orders under this act, be cited to see proceedings, or otherwise summoned, in like manner as the next of kin or others having or pretending interest in the personal estate affected by a will should be cited or summoned, and may be permitted to become parties, or intervene for their respective interests in such real estate, subject to such rules and orders, and to the discretion of the court.

62. Where probate of such will is granted after such proof in solemn form, or where the validity of the will is otherwise declared by the decree or order in such contentious cause or matter as aforesaid, the probate, decree, or order respectively

shall enure for the benefit of all persons interested in the real estate affected by such will, and the probate copy of such will, or the letters of administration with such will annexed, or a copy thereof respectively, stamped with the seal of her Majesty's Court of Probate, shall in all courts, and in all suits and proceedings affecting real estate, of whatever tenure, (save proceedings by way of appeal under this act, or for the revocation of such probate or administration), be received as conclusive evidence of the validity and contents of such will, in like manner as a probate is received in evidence in matters relating to the personal estate; and where probate is refused or revoked, on the ground of the invalidity of the will, or the invalidity of the will is otherwise declared by decree or order under this act, such decree or order shall enure for the benefit of the heir-at-law or other persons against whose interest in real estate such will might operate, and such will shall not be received in evidence in any suit or proceeding in relation to real estate, save in any proceeding by way of appeal from such decrees or orders.

63. Nothing herein contained shall make it necessary to cite the heir-at-law or other persons having or pretending interest in the real estate of a deceased person, unless it is shewn to the court, and the court is satisfied, that the deceased was at the time of his decease seised of, or entitled to, or had power to appoint by will, some real estate beneficially, or in any case where the will propounded, or of which the validity is in question, would not in the opinion of the court, though established as to personalty, affect real estate; but in every such case, and in any other case in which the court may, with reference to the circumstances of the property of the deceased or otherwise, think fit, the court may proceed without citing the heir or other persons interested in real estate: provided, that the probate, decree, or order of the court shall not in any case affect the heir or any person in respect of his interest in real estate, unless such heir or person has been cited or made party to the proceedings, or derives title under or through a person so cited or made party.

64. In any action at law or suit in equity, where, according to the existing law, it would be necessary to produce and prove an original will in order to establish a devise or other testamentary disposition of or affecting real estate, it shall be lawful for the party intending to establish in proof such devise or other testamentary disposition to give to the opposite party, ten days at least before the trial or other proceeding in which the said proof shall be intended to be adduced, notice that he intends at the said trial or other proceeding to give in evidence, as proof of the devise or other testamentary disposition, the probate of the said will, or the letters of administration with the will annexed, or a copy thereof stamped with any seal of the Court of Probate; and in every such case such probate or letters of administration, or copy thereof respectively, stamped as aforesaid, shall be sufficient evidence of such will and of its validity and contents, notwithstanding the same may not have been proved in solemn form, or have been otherwise declared valid in a contentious cause or matter, as herein provided, unless the party receiving such notice shall, within four days after such receipt, give notice that he disputes the validity of such devise or other testamentary disposition.

65. In every case in which, in any such action or suit, the original will shall be produced and proved, it shall be lawful for the court or judge before whom such evidence shall be given to direct by which of the parties the costs thereof shall be paid.

66. There shall be one place of deposit, under the control of the Court of Probate, at such place in London or Middlesex as her Majesty may by Order in Council direct, in which all the original wills brought into the court, or of which probate or administration with the will annexed is granted under this act in the principal registry thereof, and copies of all wills, the originals whereof are to be preserved in the district registries, and such other documents as the court may direct, shall be deposited and preserved, and may be inspected under the control of the court, and subject to the rules and orders under this act.

67. The judge shall cause to be made from time to time in the principal registry of the Court of Probate calendars of the grants of probate and administration in the principal registry, and in the several district registries of the court, for such periods as the judge may think fit, each such calendar to contain a note of every probate or administration with the will annexed granted within the period therein specified, and also a note of every other administration granted within the same period, such respective notes setting forth the dates of such grants, the registry in which the grants were made, the names of the testators and intestates, the place and time of death, the names and descriptions of the executors and administrators, and the value of the effects; and the calendars to be so made shall be printed as the same are from time to time completed.

68. The registrars shall cause a printed copy of every calendar to be transmitted, through the post or otherwise, to each of the district registries, and to the office of her Majesty's Prerogative in Dublin, the office of the commissary of the county of Midlothian in Edinburgh, and such other offices, if any, as the Court of Probate shall from time to time by rule or order direct; and every printed copy of a calendar so transmitted as aforesaid shall be kept in the registry or office to which it is transmitted, and may be inspected by any person on payment of a fee of 1*s*. for each search, without reference to the number of calendars inspected.

69. An official copy of the whole or any part of a will, or an official certificate of the grant of any letters of administration, may be obtained from the registry or district registry where the will has been proved or the administration granted, on the payment of such fees as shall be fixed for the same by the rules and orders under this act.

70. Pending any suit touching the validity of the will of any deceased person, or for obtaining, recalling, or revoking any probate or any grant of administration, the Court of Probate may appoint an administrator of the personal estate of such deceased person; and the administrator so appointed shall have all the rights and powers of a general administrator, other than the right of distributing the residue of such personal estate; and every such administrator shall be subject to the immediate control of the court, and act under its direction.

71. It shall be lawful for the Court of Probate to appoint any administrator appointed as aforesaid, or any other person, to be receiver of the real estate of any deceased person pending any suit in the court touching the validity of any will of such deceased person by which his real estate may be affected, and such receiver shall have such power to receive all rents and profits of such real estate, and such powers of letting and managing such real estate, as the court may direct.

72. The Court of Probate may direct that administrators and receivers, appointed pending suits involving matters and causes testamentary, shall receive out of the personal and real estate of the deceased such reasonable remuneration as the court think fit.

73. Where a person has died or shall die wholly intestate as to his personal estate, or leaving a will affecting personal estate, but without having appointed an executor thereof willing and competent to take probate, or where the executor shall at the time of the death of such person be resident out of the United Kingdom of Great Britain and Ireland, and it shall appear to the court to be necessary or convenient in any such case, by reason of the insolvency of the estate of the deceased, or other special circumstances, to appoint some person to be the administrator of the personal estate of the deceased, or of any part of such personal estate, other than the person who, if this act had not been passed, would by law have been entitled to a grant of administration of such personal estate, it shall not be obligatory upon the court to grant administration of the personal estate of such deceased person to the person who, if this act had not passed, would by law have been entitled to a grant thereof, but it shall be lawful for the court, in its discretion, to appoint such person as the court shall think fit to be such administrator, upon his giving such security, if any, as the court shall direct, and every such administration may be limited as the court shall think fit.

74. The provisions of an act passed in the 38 Geo. 3, c. 87, shall apply (in like manner) to all cases where letters of administration have been granted, and the person to whom such administration shall have been granted shall be out of the jurisdiction of her Majesty's courts of law and equity.

75. After any grant of administration no person shall have power to sue or prosecute any suit, or otherwise act as executor of the deceased, as to the personal estate comprised in or affected by such grant of administration, until such administration shall have been recalled or revoked.

76. Where, before the revocation of any temporary administration, any proceedings at law or in equity have been commenced by or against any administrator so appointed, the court in which such proceedings are pending may order that a

suggestion be made upon the record of the revocation of such administration, and of the grant of probate or administration which shall have been made consequent thereupon, and that the proceedings shall be continued in the name of the new executor or administrator, in like manner as if the proceeding had been originally commenced by or against such new executor or administrator, but subject to such conditions and variations, if any, as such court may direct.

77. Where any probate or administration is revoked under this act all payments bonâ fide made to any executor or administrator under such probate or administration, before the revocation thereof, shall be a legal discharge to the person making the same; and the executor or administrator who shall have acted under any such revoked probate or administration may retain and reimburse himself in respect of any payments made by him which the person to whom probate or administration shall be afterwards granted might have lawfully made.

78. All persons and corporations making or permitting to be made any payment or transfer bonâ fide, upon any probate or letters or administration granted in respect of the estate of any deceased person under the authority of this act, shall be indemnified and protected in so doing, notwithstanding any defect or circumstance whatsoever affecting the validity of such probate or letters of administration.

79. Where any person, after the commencement of this act, renounces probate of the will of which he is appointed executor or one of the executors, the rights of such person in respect of the executorship shall wholly cease, and the representation to the testator and the administration of his effects shall and may, without any further renunciation, go, devolve, and be committed in like manner as if such person had not been appointed executor.

80. So much of an act passed in the 21 Hen. 8, c. 5, and of an act passed in the 22 & 23 Car. 2, c. 10, and of an act passed in the 1 Jac. 2, c. 17, as requires any surety, bond, or other security to be taken from a person to whom administration shall be committed, shall be repealed.

81. Every person to whom any grant of administration shall be committed shall give bond to the judge of the Court of Probate, to enure for the benefit of the judge for the time being, and, if the Court of Probate or (in the case of a grant from the district registry) the district registrar shall require, with one or more surety or sureties, conditioned for duly collecting, getting in, and administering the personal estate of the deceased, which bond shall be in such form as the judge shall from time to time by any general or special order direct: provided, that it shall not be necessary for the solicitor for the affairs of the Treasury, or the solicitor of the Duchy of Lancaster, applying for or obtaining administration to the use or benefit of her Majesty, to give any such bond as aforesaid.

82. Such bond shall be in a penalty of double the amount under which the estate and effects of the deceased shall be sworn, unless the court or district registrar, as the case may be, shall in any case think fit to direct the same to be reduced, in which case it shall be lawful for the court or district registrar so to do, and the court or district registrar may also direct that more bonds than one shall be given, so as to limit the liability of any surety to such amount as the court or district registrar shall think reasonable.

83. The court may, on application made on motion or petition in a summary way, and on being satisfied that the condition of any such bond has been broken, order one of the registrars of the court to assign the same to some person to be named in such order, and such person, his executors or administrators, shall thereupon be entitled to sue on the said bond, in his own name, both at law and in equity, as if the same had been originally given to him instead of to the judge of the court, and shall be entitled to recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach of the condition of the said bond.

84. All suits, whether original or by way of appeal, which at the commencement of this act shall be pending in any court in England respecting any grant of probate or administration, shall be transferred, with all the proceedings therein, to the Court of Probate, there to be dealt with and decided according to the rules and practice of the said court, except so far as such court may think it expedient to adopt, for the purposes of such transferred suits or any of them, the rules or practice of the court in which the same shall have been pending, to which end the Court of Probate shall, for the purposes of such suits, have all the jurisdiction, power, and authority possessed by the court from which such suit shall be transferred; but this enactment shall not apply to proceedings by way of appeal pending before her Majesty in Council, which proceedings shall be carried on and prosecuted in the same manner in all respects as if this act had not passed; and every person who if this act had not passed might have appealed to her Majesty in Council against any proceeding, decree, or sentence of any court respecting the grant of any probate or administration may, notwithstanding this act, appeal to her Majesty in Council against such proceeding, decree, or sentence: provided also, that her Majesty in Council may remit to the Court of Probate any cause or proceeding pending by way of appeal as aforesaid, or to be brought before her Majesty in Council upon appeal as aforesaid, with such directions as the justice of the case may require.

85. Provided, that if at the commencement of this act any cause which would be transferred to the Court of Probate under the enactment hereinbefore contained shall have been heard before any judge having jurisdiction in relation to such cause before the commencement of this act, and shall be standing for judgment, such judge may, at any time within six weeks after the commencement of this act, give in to one of the registrars of the court a written judgment thereon, signed by him, and a decree or order, as the case may require, shall be drawn up in pursuance of such judgment; and every such decree or order shall have the same force and effect as if it had been drawn up in pursuance of a judgment of the Court of Probate on the day on which the same shall so be delivered to the registrar, and shall be subject to appeal under this act.

86. All grants of probates and administrations made before the commencement of this act, which may be void or voidable by reason only that the courts from which respectively the same were obtained had not jurisdiction to make such grants, shall be as valid as if the same had been obtained from courts entitled to make such grants: provided, that any such grants of probate or administration shall not be made valid by this act when the same shall before the commencement of this act have been revoked, or determined by any court of competent jurisdiction to have been void; nor shall this act prejudice or affect any proceedings pending at the time of the passing of this act in which the validity of any such probate or administration shall be in question: if the result of such proceedings shall be to invalidate the same, such probate or administration shall not be rendered valid by this act; and if such proceedings abate or become defective by reason of the death of any party, any person who but for this act would have any right by reason of the invalidity of such probate or administration shall retain such right, and may commence proceedings for enforcing the same within six calendar months after the death of such party.

87. Legal grants of probate and administration made before the commencement of this act, and grants of probate and administration made legal by this act, shall have the same force and effect as if they had been granted under this act, but in every such case there shall be due and payable to her Majesty such further stamp duty, if any, as would have been chargeable on any probate or administration which but for this act would or ought to have been obtained in respect of the personal estate not covered by the grant; and all inventories and accounts in respect thereof shall be returnable to the Court of Chancery, and all bonds taken in respect thereof may be enforced by or under the authority of the Court of Chancery, at the discretion of the court.

88. Provided, that where any probate or administration has been granted before the commencement of this act, and the deceased had personal estate in England not within the limits of the jurisdiction of the court by which the probate or administration was granted, or otherwise not within the operation of the grant, it shall be lawful for the Court of Probate to grant probate or administration only in respect of such personal estate not covered by any former probate or administration, and such grant may be limited accordingly.

89. The acting judge and registrar of every court, and other person now having jurisdiction to grant probate or administration, and every person having the custody of the documents and papers of or belonging to such court or person, shall, upon receiving a requisition for that purpose, under the seal of the Court of Probate, from a registrar, and at the time and in the manner mentioned in such requisition, transmit to the Court of Probate, or to such other place as in such requisition shall

be specified, all records, wills, grants, probates, letters of administration, administration bonds, notes of administration, court books, calendars, deeds, processes, acts, proceedings, writs, documents, and every other instrument relating exclusively or principally to matters or causes testamentary, to be deposited and arranged in the registry of each district or in the principal registry, as the case may require, so as to be easy of reference, under the control and direction of the court.

90. No judge, registrar, or other person who shall wilfully refuse or neglect so to transmit such records, wills, grants, probates, letters of administration, administration bonds, notes of administration, court books, calendars, deeds, processes, acts, proceedings, writs, documents, or any other instrument relating to matters or causes testamentary, shall be entitled to any compensation under this act; and every judge, registrar, or other person so refusing or neglecting shall be liable to a penalty of 100*l*., to be sued for and recovered, together with full costs of suit, in any of her Majesty's superior courts, by the registrars.

91. One or more safe and convenient depository or depositories shall be provided, under the control and directions of the Court of Probate, for all such wills of living persons as shall be deposited therein for safe custody; and all persons may deposit their wills in such depository, upon payment of such fees and under such regulations as the judge shall from time to time by any order direct.

92. Nothing in this act contained shall affect the stamp duties now by law payable upon probates and administrations; and all the clauses, provisions, rules, regulations, and directions contained in any act of Parliament relating to the said duties, and to wills, probates of wills, and letters of administration, for securing the said duties, not superseded by or inconsistent with the express provisions of this act, shall be in full force, and shall be observed, applied, and put in execution for securing the duties payable on probates of wills and letters of administration granted under this act, as if such duties had been granted by this act, and the said clauses, provisions, rules, and regulations relating thereto were herein repeated and specially enacted.

93. The registrars of the Court of Probate shall, within such period as the judge shall direct after probate of any will or letters of administration shall have been granted, deliver or cause to be delivered to the Commissioners of Inland Revenue, or their proper officer, the following documents respectively; that is to say, in the case of a probate or administration with a will annexed, a copy of the will and the original affidavit; and in the case of letters of administration without a will annexed, such original affidavit; and in every case of letters of administration, a copy or extract thereof; and in every case, such certificate or note of the grant as the said commissioners may require.

94. Whereas, by an act passed in the 53 Geo. 3, c. 127, it is enacted, that if any proctor of any ecclesiastical court shall act as such, or permit his name to be used in any suit appertaining to the office of a proctor, or in obtaining probates of wills or letters of administration, for or on account or for the profit or benefit of any person not entitled to act as a proctor, or shall permit any such person to participate in such profit or benefit, such proctor shall be subject to certain penalties therein mentioned; and it is also therein further enacted, that if any person shall, in his own name, or in that of any other person, do or perform any act whatever belonging to the office of a proctor in consideration of any gain, fee, or reward, or with a view to participate in the benefit to be derived from the office, functions, or practice of a proctor, without being admitted and inrolled, every such person shall be subject to certain other penalties therein mentioned: be it enacted, that nothing in the said act contained shall prevent any proctor of the Court of Probate from acting as agent of any attorney or solicitor in relation to any matter testamentary, or from allowing him to participate in the profits of and incident thereto.

95. The Lord Chancellor, with such assistance as is hereinbefore provided as to rules and orders to be made in pursuance of this act, shall, as soon as conveniently may be after the passing of this act, fix a table or tables of fees to be taken by the officers of the Court of Probate, and the proctors, solicitors, and attornies practising therein, including the district registrars, and the proctors, solicitors, and attornies practising in district registries, and of fees to be taken by the officers of the county courts, in respect of business under this act, and of fees to be payable in respect of searches, inspection, and printed and other copies of and extracts from records, wills, and other documents in the custody or under the control of the Court of Probate; and the judge of the Court of Probate, with such concurrence as is hereinbefore provided in respect of the amendment of rules and orders, is hereby empowered, from time to time after this act shall come into operation, to add to, reduce, alter, or amend such table or table of fees, as he may see fit: provided, that such tables of fees, and every alteration of the same, except so far as respects the fees which are to be taken by district registrars, proctors, and others, for their own remuneration and to their own use, shall be subject to the approval of the Commissioners of her Majesty's Treasury; and every such table of fees, and every addition, reduction, alteration, or amendment to, in, or of the same, shall be published in the London Gazette; and no other fees than those specified and allowed in such tables of fees shall be demanded or taken by such officers, and proctors, solicitors, and attornies.

96. The bill of any proctor, attorney, or solicitor, for any fees, charges, or disbursements in respect of any business transacted in the Court of Probate, whether contentious or otherwise, or any matters connected therewith, shall, as well between proctor or attorney or solicitor and client as between party and party, be subject to taxation by any one of the registrars of the said court; and the mode in which any such bill shall be referred for taxation, and by whom the costs of taxation shall be paid, shall be regulated by the rules and orders to be made under this act; and the certificate of the registrar of the amount at which such bill is taxed shall be subject to appeal to the judge of the said court.

97. None of the fees payable to the officers of the Court of Probate, or of any county court, in respect of business under this act, except the fees of the district registrars, (which are to be taken as their remuneration and for their own use), the fees of proctors, solicitors, and attornies, and such fees as may be authorised to be taken for their own use by surrogates and commissioners for administering oaths, shall be received in money, but every such fee shall be collected and received by a stamp denoting the amount of the fee which otherwise would be payable.

98. The fees to be collected by means of stamps under the provisions of this act shall be deemed "stamp duties," and shall be placed under the management of the Commissioners of Inland Revenue, to be collected and paid into the Exchequer under the same laws and regulations as those made in respect of the other duties of "stamps," and the provisions in the several acts for the time being in force relating to stamps under the care or management of the Commissioners of Inland Revenue shall in all cases not hereby expressly provided for be of full force and effect with respect to the stamps to be provided under or by virtue of this act, and to the vellum, parchment, or paper on or to which the same stamps shall be impressed or affixed, and be applied and put in execution for collecting and securing the sums of money denoted thereby, and for preventing, detecting, and punishing all frauds, forgeries, and other offences relating thereto, as fully and effectually to all intents and purposes as if such provisions had been herein repeated and specially enacted with reference to the said last-mentioned stamps and sums of money respectively; but a separate and distinct account of all money received in respect of the said last-mentioned stamps for every year ending the 31st March shall be laid before both Houses of Parliament within one month after the termination of such year of accounts, or, if Parliament be not then sitting, within one month after the commencement of the next session of Parliament.

99. No document which under this act, and any table of fees for the time being in force under this act, ought to have a stamp in respect of such fee impressed thereon or affixed thereto, shall be received, or filed, or be used in relation to any proceeding in the Court of Probate, or be of any validity for any purpose whatsoever, unless or until the same shall have the proper stamp impressed thereon or affixed thereto: provided, that if at any time it shall appear that any such document has through mistake or inadvertence been received, or filed, or used without having such stamp impressed thereon or affixed thereto, it shall be lawful for the judge of the Court of Probate, if he think fit, to order that such stamp shall be impressed thereon or affixed thereto; and thereupon, when a stamp shall have been impressed on such document or affixed thereto in compliance with any such order, such document, and every proceeding in reference thereto, shall be as valid and

effectual as if such stamp had been impressed thereon or affixed thereto in the first instance.

100. If any officer of the Court of Probate, or any other person employed under this act, shall do or commit or connive at any fraudulent act or practice in relation to any stamp to be used under the provisions of this act, or to any fee or sum of money to be collected, or which ought to be collected, by means of any such stamp, or if any such officer or person shall be guilty of any wilful act, neglect, or omission whereby any fee or money which ought to be collected by means of a stamp under this act shall be lost, or the payment thereof evaded, every such officer or person so offending shall be dismissed from his office or employment if the judge of the Court of Probate shall think fit so to order.

101. The salary of the judge of the Court of Probate, and any retiring annuity granted to a judge of the Court of Probate under this act, and all compensations payable under this act, shall be charged on and payable out of the Consolidated Fund of the United Kingdom.

102. It shall be lawful for the Commissioners of her Majesty's Treasury, out of such monies as may be provided and appropriated by Parliament for the purpose, to cause to be paid all salaries payable to the registrars, clerks, and other officers under this act, and all necessary expenses of the Court of Probate and its registries, and other expenses which may be incurred in carrying the provisions of this act into effect, (except such salary, retiring annuity, and compensations as are hereinbefore charged on the said Consolidated Fund).

103. It shall be lawful for the Commissioners of the Treasury to grant to any archdeacons, judges, deputy judges, registrars, deputy registrars, and other persons holding office in the courts now exercising jurisdiction in matters and causes testamentary, who may sustain any loss of emoluments by reason of the passing of this act, and who are not transferred or appointed by or under this act to offices of equal value in the Court of Probate, such compensation as, having regard to the tenure of their respective offices and appointments, and to the provisions of the act of the session holden in the 6 & 7 Will. 4, c. 77, s. 25, and of the act of the session holden in the 10 & 11 Vict. c. 98, s. 9, and the several subsequent acts continuing the provisions of the said acts respectively, the said commissioners deem just and proper to be awarded: provided, that where persons, whose claims in respect of offices held for life or otherwise are excluded by the said provisions, have executed in person the duties of such offices, the said provisions shall not be deemed to prevent the said commissioners from granting to such persons such compensation as the said commissioners would deem just and proper to be awarded on the abolition or reduction of the emoluments of like offices if held at the pleasure of the Crown; and it shall be lawful for the said commissioners to grant to all managing and other clerks who have been continuously employed in the offices of registrars of the said courts for fifteen years and upwards immediately before the passing of this act, and may sustain any loss of emoluments as aforesaid, and are not transferred or appointed as aforesaid, such compensation as the said commissioners may deem just and proper: provided always, that if any person to whom any yearly sum is awarded for compensation as aforesaid is or shall be appointed to any office or situation under this act, or in the public service, the payment of such compensation shall be suspended so long as he continues to receive the salary or emoluments of such office or situation, if the amount thereof be equal to or greater than the amount of emoluments in respect of the loss whereof compensation is awarded; and if the amount of such last-mentioned emoluments be greater than the salary or emoluments of such office or situation, no more of such compensation shall be paid than will, with such salary or emoluments, be equal to the emoluments in respect of the loss whereof such compensation is payable.

104. Any person to whom compensation is awarded under this act in respect of the loss of emoluments of any office, and who at the passing of this act shall have been discharging or liable to discharge in respect of such office duties other than those in matters and causes testamentary, shall, so long as he shall receive such compensation, be bound to discharge such other duties on the same terms on which, whether gratuitously or otherwise, he discharged or was liable to discharge the same before the passing of this act.

105. Whereas the fees or emoluments of the persons now practising as proctors in the courts now exercising jurisdiction in matters and causes testamentary may be damaged by the abolition of the exclusive rights and privileges which they have hitherto enjoyed as such proctors in such courts: be it enacted, that the Commissioners of her Majesty's Treasury, by examination on oath or otherwise, which oath they are hereby authorised to administer, may inquire into, and may, by the production of such evidence as they shall think fit to require, ascertain and absolutely determine, the net annual amount of the profits arising from the transaction of business by proctors in matters and causes testamentary, on an average of five years immediately preceding the commencement of this act, or of such proportion of five years as shall have elapsed since each and every such proctor was admitted to practise in such courts, and shall award to each and every such proctor a sum of money or annual payment during the term of his natural life, of such amount as shall be equal in value to one-half of the net profits derived by such proctor in respect of matters and causes testamentary upon the said average of five years immediately preceding the commencement of this act, or of such proportion of the said five years as shall have elapsed since the admission of each and every such proctor to practise in the courts now exercising jurisdiction in matters and causes testamentary.

106. And whereas divers proctors practising in the courts now exercising jurisdiction in matters and causes testamentary now are or may at the commencement of this act be associated together in partnership: be it therefore enacted, that in all such cases the Commissioners of her Majesty's Treasury shall inquire into and ascertain the terms or conditions of such partnerships, and shall absolutely determine and award compensation in respect thereof as hereinbefore provided to each of such partnerships, in like manner as if all the emoluments thereof had been derived by one individual, and shall apportion such compensation among the members of each such partnership, with or without benefit of survivorship, regard being had to the existing terms and conditions of the same.

107. And whereas the Most Reverend Charles late Archbishop of Canterbury, by virtue of the power given by an act of the 9 Geo. 4, "to authorise the Lord Archbishop of Canterbury for the time being to appoint a person or persons to the office of registrar of his Prerogative, without a previous surrender of the existing grant or grants of the said office," did, by letters-patent under his archiepiscopal seal, dated the 21st June, 1828, with the confirmation of the dean and chapter of the cathedral and metropolitical church of Christ, Canterbury, grant the said office of registrar of his Prerogative to the Right Hon. Charles Manners Sutton, now Viscount Canterbury, then Charles Manners Sutton, Esq., the eldest son and next heir male of the Right Hon. Charles Manners Sutton, late Viscount Canterbury, for his life, subject and without prejudice to the estates and interests, rights and privileges, of the Rev. George Moore and Robert Moore, (who then held the said office by virtue of such grant as therein mentioned), and the survivor of them: and whereas, by an act passed in the session of Parliament held in the 2 & 3 Will. 4, [c. 109], intituled "An Act for settling and securing Annuities on the Right Hon. Charles Manners Sutton, and on his next Heir Male, in consideration of the eminent Services of the said Right Hon. Charles Matters Sutton," it was enacted, that an annuity of 4000*l.* should be payable out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland to the said Right Hon. Charles Manners Sutton, late Viscount Canterbury, during his life, and that after the decease of the said Charles late Viscount Canterbury one annuity of 3000*l.* be payable out of the said Consolidated Fund to the then heir male of the body of the said Charles late Viscount Canterbury, during the natural life of such heir male; and it was further enacted, that in the event of the said Charles now Viscount Canterbury having succeeded to and being in the possession of the said annuity of 3000*l.*, and afterwards becoming entitled to the full possession of the said office of registrar of the Prerogative of the Lord Archbishop of Canterbury, and to the fees, perquisites, profits, and emoluments thereof, (provided the same should exceed the annual sum of 3000*l.*), then and in either of the cases aforesaid the said annuity of 3000*l.* should cease and determine, and be no longer payable to the said Charles now Viscount Canterbury; provided nevertheless, that if the said fees, perquisites, profits, and emoluments of the said office of registrar should not produce the net annual sum of 3000*l.* to the said Charles now Viscount Canterbury, then there should be issued and paid out of the said Consolidated Fund such a sum of money an-

nually as, together with the said fees, perquisities, profits, and emoluments, would make a clear annual income to the said Charles now Viscount Canterbury of 3000*l.*: and whereas the said Charles now Viscount Canterbury, upon the decease of the said Charles late Viscount Canterbury, succeeded to and is now in possession of the annuity of 3000*l.*, but he is not yet in possession of the said office of registrar: there shall be awarded to the said Charles now Viscount Canterbury, as a compensation for the fees, perquisites, profits, and emoluments of the said office of registrar of the Prerogative of the Lord Archbishop of Canterbury, an annuity to be calculated upon the average yearly net receipts of the legal fees, perquisites, profits, and emoluments of the said office during such period next preceding the time when this act shall come into operation as the Commissioners of her Majesty's Treasury shall think proper; and such annuity shall commence from the time of this act coming into operation, if the said Charles Viscount Canterbury shall then be in possession of the said office, and if not, then from the time at which the said Charles Viscount Canterbury would have become entitled, but for the passing of this act, to the full possession of the said office, and to the receipt of the fees, perquisites, profits, and emoluments thereof, and shall be paid to the said Charles Viscount Canterbury thenceforth during his life: provided, that if the said annuity by way of compensation shall exceed the annual sum of 3000*l.*, then the said annuity of 3000*l.* payable under the last-recited act to the said Charles Viscount Canterbury shall, from and after the commencement of the said annuity by way of compensation, cease and determine, and shall not be payable to the said Charles Viscount Canterbury; and in case the annuity awarded by way of compensation shall be less than the net annual sum of 3000*l.*, the provision contained in the said recited act passed in the session of Parliament held in the 2 & 3 Will. 4, for the payment unto the heir male of the body of the said Charles Viscount Canterbury, out of the said Consolidated Fund, of such a sum of money annually as, together with the said fees, perquisites, profits, and emoluments, would make up a clear income to him of 3000*l.*, shall, from and after the commencement of the said annuity by way of compensation, be applicable to and be in force for the purpose of making up, together with the said annuity so to be awarded in lieu of such fees, perquisites, profits, and emoluments as aforesaid, a clear annual income of 3000*l.* to the said Charles now Viscount Canterbury during his life.

108. All the claim, title, and interest which at the time of the passing of this act the Rev. Robert Moore, clerk, has or is entitled to in or in respect of the building at present used as the Public Registry of the Prerogative Court, shall at the time appointed for the commencement of this act vest in the registrars for the time being of the court, subject to the payment of such rents, and the performance and fulfilment of such contracts in respect thereof, as the said Robert Moore, his executors or administrators, shall be subject to at the time of such vesting.

109. In case Sir John Dodson, the present judge of the Prerogative Court of Canterbury and dean of the Court of Arches, be not appointed the first judge of the Court of Probate, there shall be paid to him during his natural life, as well by way of retiring pension as of salary as dean of the Court of Arches, the net yearly sum of 2000*l.*, to commence from the time appointed for the coming into operation of this act, and to be paid out of the fund and in manner herein provided for the payment of compensations.

110. There shall be a clerk or so many clerks in each district registry, and there shall be paid to such clerk or clerks such salary or respective salaries, as the judge of the court, with the sanction of the Commissioners of her Majesty's Treasury, may from time to time think fit to direct; and it shall be lawful for such judge to prescribe from time to time the qualifications which shall be possessed by persons appointed to be clerks in such district registries, and generally to regulate the establishment of such district registries with reference to the duties to be performed therein; and the clerk or clerks in each district registry shall be appointed by the district registrar, with the approval of the judge; and every such clerk may be removed by such judge, or by the district registrar with the approval of the judge.

111. Each district registrar shall, out of the fees taken by him in respect of the business in his respective district registry, pay the salary or salaries of the clerk or clerks in such registry, and the residue of such fees shall be retained by such district registrar to his own use; and every district registrar shall keep an account of all fees so taken by him as aforesaid, and shall within one month after the end of each year render to the Commissioners of her Majesty's Treasury a faithful account in writing of all such fees received by him during such year: provided, that it shall be lawful for the Commissioners of her Majesty's Treasury, at any time after the commencement of this act, to order that the district registrars under this act, or any of them, shall be paid by salaries instead of fees, and to fix the salaries to be payable to them respectively; and thereupon all fees payable to the district registrars so ordered to be paid by salaries shall be accounted for and paid into the Exchequer at such times and under such regulations as the Commissioners of her Majesty's Treasury shall direct, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, and the salaries of such district registrars and of their clerks shall be paid out of such monies as shall be provided by Parliament for that purpose, and no such district registrar shall be deemed to have any claim to compensation on account of any diminution of his emoluments by reason of any such order.

112. It shall be lawful for the Commissioners of the Treasury to grant to every clerical surrogate, or other clerical person, who at the time of the passing of this act shall have been appointed surrogate in either of the provinces of Canterbury or York, such compensation for any loss the said surrogates or persons may sustain by the passing of this act as the said commissioners deem just and proper to be awarded, the said commissioners having regard, in awarding such compensation, to the circumstance of the said clerical surrogates not being able to follow any other professional employment in lieu of the said office of surrogate.

113. That every person to whom any compensation shall be granted under this act shall at all times when called upon be liable to fill any public office or situation in England under the Crown for which his previous services in any office abolished by this act may render him eligible; and that if he shall decline, when called upon so to do, to take upon himself such office or situation, and execute the duties thereof satisfactorily, being in a competent state of health, he shall forfeit his right to any compensation or allowances which may have been granted to him in respect of such previous services.

114. The Commissioners of her Majesty's Treasury shall cause to be prepared in each year ending the 31st December a return of all fees and monies levied in such year under the authority of this act; also a return of the annual salaries of the judge of the said Court of Probate, and of the registrars, deputy registrars, clerks, and all others holding offices either in London or in the country districts, with an account of all the incidental expenses relating to the offices aforesaid, whether such salaries and expenses be defrayed out of fees or out of any other monies; also a return of all superannuations, pensions, annuities, retiring allowances, and compensations made payable under this act in each year, stating the gross amount and the amount in detail of such charges: provided always, that all such returns aforesaid shall be presented to both Houses of Parliament on or before the 31st March in each year, if Parliament is then sitting; and if Parliament is not sitting, then such returns shall be presented within one month of the first meeting of Parliament after the 31st March in each year: provided also, that every district registrar shall keep an account of all fees so taken by him as aforesaid, and shall within one month after the end of each year render to the Commissioners of her Majesty's Treasury a faithful account in writing of all such fees received by him during such year.

115. The judge of the court, if a privy councillor, shall be a member of the Judicial Committee of the Privy Council.

116. And whereas, with reference to the abolition of the jurisdiction hereby abolished and otherwise, it is expedient to give, confirm, or extend certain powers to or of "the College of Doctors of Law exercent in the Ecclesiastical and Admiralty Courts," incorporated under that style and title by letters-patent, dated the 22nd June, in the eighth year of his late Majesty King George III: be it enacted, that it shall be lawful for the said college from time to time hereafter to let, sell, or exchange for other real or personal estate, or both, all or any part of the real and personal estate which shall for the time being belong to the said college, either directly or through

the medium of any trustee or trustees, and to lay out the monies to be received on any such sale or exchange or otherwise, belonging to the said college as aforesaid, in the purchase of other real or personal estate, or both, but so that the said college shall not at any one time hold or enjoy real estate of a yearly value exceeding 1000*l.* in the whole, and to pay, apply, and dispose of the income of all the real and personal estate which shall for the time being belong to the said college as aforesaid to or for the benefit of such body or bodies politic or corporate, or person or persons, whether being or including, or not being or including, the said college, and all or any individual members or member thereof for the time being, and generally for such purposes and in such manner as the said college shall think fit; and further, to alien and dispose of all or any part of such real and personal estate, and the proceeds of any sale thereof, either by way of donation, voluntary disposition, or otherwise, unto, between, or amongst any body or bodies politic or corporate, or any person or persons whatsoever, whether being or not being a member or members of the said college: provided always, that no donation or other voluntary disposition of the corpus, or any part of the corpus, of the real and personal estate of the said college, to any person or persons being a member or members thereof at the time of such donation or other voluntary disposition, shall be effectual without the previous consent thereto of a majority of the members of the said college present at any meeting of the college; and the receipt of the treasurer for the time being of the said college shall be an effectual discharge for all gross annual and other sums which shall for the time being belong or be payable to the said college.

117. It shall be lawful for the said college, at any time after a resolution to that effect shall have been come to at a meeting of the college, by a majority of the members present at such meeting, to surrender and yield up to her Majesty, her heirs or successors, at such time as in such resolution shall be determined, the charter of incorporation of the said college, and all franchises and privileges thereby conferred, or which shall for the time being belong to the said college; and upon and by such surrender the said corporation shall be dissolved, and shall cease to exist, for all purposes whatsoever, (except so far as its existence may be requisite for the saving of the rights of her Majesty, her heirs and successors, and of all and every person and persons, body and bodies politic or corporate, whatsoever, other than the said college); and all real and personal estate which at the time of such dissolution of the said college shall belong to the said college for its own use and benefit, either directly or through the medium of any trustee or trustees, shall thenceforth belong, for all the estate and interest therein which at the time of such dissolution belonged to the said college absolutely, to all the persons who, at the time of such dissolution thereof, shall be the president and fellows of the said college, in equal shares, as tenants in common, to and for their own use and benefit respectively, but subject to any charges or incumbrances affecting the same at the time of such dissolution, and all real and personal estate of which the said college at the time of such dissolution thereof shall be seised or possessed, upon any trust or trusts, shall thereupon become vested in the four persons who at the time of such dissolution shall be the president and three senior fellows of the said college, as joint tenants, their heirs, executors, or administrators, according to the nature of the real and personal estates respectively, upon the trust or trusts affecting the same respectively.

118. It shall be lawful for the Commissioners of her Majesty's Treasury, out of such monies as may be provided and appropriated by Parliament for that purpose, to cause to be purchased, erected, hired, or otherwise provided such offices and buildings as may be suitable for the district registries and depository or depositories for wills, and such buildings, if any, as may be necessary for the court and principal registry, in addition to the building by this act vested in the said registrars, or after the determination of their interest in such building.

119. All rules and orders to be made under this act concerning procedure and practice, and the table of fees to be fixed under this act, and all alterations thereof to be from time to time made, shall be laid before both Houses of Parliament within one month after the making thereof, if Parliament be then sitting, or if Parliament be not then sitting, within one month after the commencement of the then next session of Parliament.

SCHEDULE (A.)

DISTRICTS AND PLACES OF DISTRICT REGISTRIES THROUGHOUT ENGLAND AND WALES.

Districts.	Places of District Registries.
County of Northumberland[a]	Newcastle-on-Tyne.
County of Durham	Durham.
Counties of Cumberland and Westmoreland	Carlisle.
West Riding of the county of York	Wakefield.
North Riding ditto	York.
East Riding ditto[b], including the city of York and Ainsty	
County of Lancaster, except the Hundred of Salford and West Derby and the city of Manchester	Lancaster.
City of Manchester and Hundred of Salford	Manchester.
Hundred of West Derby, in Lancashire	Liverpool.
County of Chester[c]	Chester.
Counties of Carnarvon and Anglesea	Bangor.
Counties of Flint, Denbigh, and Merioneth	St. Asaph.
County of Derby	Derby.
County of Nottingham[d]	Nottingham.
Counties of Leicester and Rutland	Leicester.
County of Lincoln[e]	Lincoln.
Counties of Salop and Montgomery	Shrewsbury.
Northern Division of Northampton, and counties of Huntingdon and Cambridge[f]	Peterborough.
County of Norfolk[g]	Norwich.
Eastern Division of the county of Suffolk, and Northern Division of the county of Essex	Ipswich.
Western Division of the county of Suffolk	Bury St. Edmunds.
County of Bedford, and Southern Division of Northamptonshire[h]	Northampton.
County of Warwick[i]	Birmingham.
County of Stafford[k]	Lichfield.
Counties of Radnor, Brecknock, and Hereford	Hereford.
Counties of Cardigan, Carmarthen[l], and Pembroke[m], with the Deaneries of East and West Gower, in the county of Glamorgan	Carmarthen.
Counties of Glamorgan (with the exception of the Deaneries of East and West Gower) and Monmouth	Llandaff.
County of Worcester[n]	Worcester.
County of Gloucester[o], except the present Bristol County Court District	Gloucester.
Bristol and Bath present County Court Districts	Bristol.
Counties of Oxford[p], Berks, and Bucks	Oxford.
Eastern Division of the county of Somerset, except the present Bath County Court District, and the part in Somersetshire of the present Bristol County Court District	Wells.
Western Division of the county of Somerset	Taunton.

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[a] Including the towns and counties of Newcastle-on-Tyne and Berwick-upon-Tweed.
[b] Including the town and county of Kingston-on-Hull.
[c] Including the city of Chester.
[d] Including the town of Nottingham.
[e] Including the city of Lincoln.
[f] Including the University of Cambridge.
[g] Including the city of Norwich.
[h] Including the town of Northampton.
[i] Including the city of Coventry.
[k] Including the city of Lichfield.
[l] Including the town of Carmarthen.
[m] Including the town of Haverfordwest.
[n] Including the city of Worcester.
[o] Including the city of Gloucester.
[p] Including the University of Oxford.

Districts.	Places of District Registries.
County of Devon[q]	Exeter.
County of Cornwall	Bodmin.
County of Wilts	Salisbury.
County of Dorset[r]	Blandford.
County of Hants[s]	Winchester.
Eastern Division of the county of Sussex[t]	Lewes.
Western Division of the county of Sussex	Chichester.
Eastern Division of the county of Kent[u]	Canterbury.

The divisions of counties referred to in the Schedule are the divisions of the same counties described for election purposes in the act of the 2 & 3 Will. 4, c. 64, and the cities and towns herein referred to are to be taken to include the counties of such cities and towns as are counties of themselves.

SCHEDULE (B.)

	Annual Salary.
The three registrars in London, each	£1500
The record keepers, each	600
The sealer	300

CAP. LXXVIII.

An Act to amend the Act 7 & 8 Vict. c. 111, for facilitating the winding up the Affairs of Joint-stock Companies unable to meet their pecuniary Engagements, and also the Joint-stock Companies Winding-up Acts, 1848 and 1849.

[25th August, 1857.]

Sect. 1. *Judge or master, by advertisement, may call meetings of creditors to appoint representative of creditors. After such advertisement, creditors to be deemed parties to the winding up. Assignees of bankrupt companies to be such representatives.*
2. *Where company bankrupt, and no winding-up order, assignees may compromise with shareholders so as to bind all the creditors.*
3. *Representatives of creditors may concur in proceedings and in compromises. All creditors to be bound thereby.*
4. *Compromise, &c. to be subject to consent of creditors, if required by judge or master.*
5. *Creditors' rights against third persons not to be prejudiced.*
6. *Proceedings under this act subject to appeal.*
7. *After advertisements for representative, creditors not to sue at law without leave of judge or master, and time is not to run against them.*
8. *Court may require security.*
9. *Creditors to be at liberty to attend proceedings and inspect books of company.*
10. *Judge or master may appoint commissioners for receiving evidence.*
11. *Rights of creditor under judgment obtained in Ireland not to be affected.*
12. *Petitions for winding up certain mining companies not to be filed in Court of Chancery, except upon special application to the Court of Stannaries, &c.*
13. *In cases where such petitions are filed, proof of debts, sales of effects, &c., to be effected through the Court of Stannaries.*
14. *Act to be deemed part of Winding-up Acts.*
15. *Interpretation of terms.*
16. *Short title of act.*

Whereas it is expedient to amend the act 7 & 8 Vict. c. 111, intituled "An Act for facilitating the winding up the Affairs of Joint-stock Companies unable to meet their pecuniary Engagements," and also to amend the Joint-stock Companies Winding-up Acts, 1848 and 1849, and also to make provision for the more equal distribution amongst creditors as well of the assets to arise from the separate estates or contributions of shareholders in any company as of the joint assets thereof: be it therefore enacted &c. as follows:—

Sect. 1. In all cases in which an order heretofore has been, or hereafter shall be, made for the dissolution and winding up or for the winding up of any company, it shall be lawful for the judge or master charged with the winding up of any company, at the instance of any creditor of such company or otherwise, in all cases in which it shall appear expedient, and for the benefit of the parties interested, in and by the advertisement for proof of debts required by the 72nd section of the Joint-stock Companies Winding-up Act, 1848, or by subsequent advertisements, or by notice transmitted to each of the creditors by post, as directed by the said two before-mentioned acts, from time to time to call upon the creditors of the company to meet before such judge or master at such time and place as shall be fixed by him, for the purpose of appointing one or more person or persons other than the official manager to represent all the creditors of the said company in and about the said proceedings before him, or in and about so many and such of the same proceedings as to such judge or master shall from time to time seem expedient; and it shall be lawful for two-thirds in value of the creditors present at such meetings, whose debts shall have been proved before the said judge or master, or who shall previously to such meeting have lodged an affidavit of their debt before him, and who would be entitled to vote in the choice of assignees under a bankruptcy, by themselves or by some person authorised by any letter or writing under the hand of such creditor, and which letter or writing shall require no stamp duty to be paid thereon, to choose some person or persons to represent all the creditors of any such company accordingly; and the proceedings of such meeting shall be conducted before and by the said judge or master in the same manner as would be the case if the said creditors were proceeding to the election of assignees in bankruptcy; provided that the said judge or master may reject any person or persons so chosen who shall appear to him unfit to be such representative or representatives, or may remove any such representative or representatives, and upon such rejection or removal a new choice of a representative or representatives shall be made in like manner; and from and after the issuing of any such advertisement as aforesaid all the creditors of the said company shall be deemed parties to the winding up: provided always, that in case such company heretofore has been or hereafter shall be adjudged bankrupt, the assignees of the estate and effects of such bankrupt company shall be deemed and taken to be, and they are hereby constituted, (without such advertisement or meeting as hereinbefore mentioned), the representatives of the creditors for the purposes of this act, and shall have and exercise the same rights and powers as are hereby given to or vested in such representative or representatives; and provided also, that if any such representative or representatives of the creditors shall have been chosen or appointed in the matter of the winding up of any company before the appointment of assignees under the adjudication of bankruptcy against the same company, then upon such appointment of assignees the rights, powers, and authorities of such representative or representatives shall cease and determine, and the same rights, powers, and authorities shall thereupon become vested in, and may lawfully be had and exercised by, such assignees as aforesaid; and such representative or representatives shall be entitled to his or their reasonable costs in the matter of the winding up of such company.

2. Whenever any such company heretofore has been or hereafter shall be declared bankrupt, and no winding-up order shall have been made before such company shall have become bankrupt, the assignees may, with the leave of the Court of Bankruptcy first obtained, after notice to such creditors, and subject to such condition (if any) as to obtaining the consent of creditors, or any proportion of them, as the said court shall think fit to direct, and whether the whole of the assets of such company shall have been collected or converted or not, and having regard to the sufficiency of the assets of the company for payment of the debts or liabilities of such company, and also to the solvency and means of the several shareholders or members of such company, or any one or more of them, or to such other matters as the said court may deem material, accept and take from all or any or either of the shareholders or members of such company such reasonable sum or sums in discharge and satisfaction of the liability

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[q] Including the city of Exeter.

[r] Including the town of Poole.

[s] Including the town of Southampton and Isle of Wight.

[t] Including such of the Cinque Ports and their dependencies as are locally situate in the county of Sussex.

[u] Including the city of Canterbury and such of the Cinque Ports and their dependencies as are locally situate in the county of Kent.

of all and every the shareholders and members, or any or either of them, to the debts and liabilities of such company, in such manner and at such times as the assignees for the time being of the estate of such company shall think fit, or make any other compromise, composition, or other arrangement in the matter; and all such sum or sums as shall be payable thereunder shall be paid to and received by the official assignee, and shall be applied as part of the estate and effects of such company; and the said court shall, at the request of the assignees for the time being of such company, give to the several shareholders and members, or such of them as shall be so discharged, a certificate under the hand and seal of the commissioner, setting forth the circumstances of such discharge, so far as he may deem the same material, and such certificate shall thenceforth operate to all intents and purposes as an absolute release to the shareholders and members to whom the same shall relate, and may be by them pleaded and used in bar and in discharge of any action, execution, or other proceeding by any creditor whose debt or claim is by law proveable under such bankruptcy; and every such shareholder and member shall be entitled, as between himself and the other shareholders or members of the company, to credit in respect of such sum or sums as shall by such certificate be declared to have been paid by him.

3. It shall be lawful for such representatives or representative as hereinbefore mentioned to join and concur or take part in all the proceedings in and about the winding up of the said company, or such of the same proceedings as the judge or master shall deem expedient for the interest of the creditors, and also, subject as hereinafter is mentioned, and so far as the creditors of the said company are concerned, to make or enter into, take part in, consent to, or approve of any compromise, composition, or arbitration, or other arrangement, whether for the discharge and satisfaction of the liability of all and every the shareholders and members, or any or either of them, to the debts and liabilities of such company or otherwise, as such representatives or representative for the time being shall think fit, and the certificate of the judge or master shall be deemed and taken as full and sufficient evidence and proof of every such compromise, composition, arbitration, or other arrangement, and of any discharge or release which may have been thereby effected; and it shall also be lawful for such representatives or representative as hereinbefore mentioned (subject as aforesaid) to take part in, consent to, or approve of any compromise, composition, arbitration, or other arrangement which the official manager may propose to make or enter into with the debtors or creditors of the said company, or otherwise in respect of its estate or affairs; and all the creditors of the said company, whether their debts shall have been then proved or not, shall, subject to the provisions hereinafter contained, be fully and effectually bound by the acts of such representatives or representative as to all such matters as are authorised by this act.

4. No such compromise, composition, arbitration, or other arrangement as in the last section mentioned shall be valid, as against the creditors of the company, unless the same be made with the consent of such representatives, and with leave of the judge or master, who shall give leave to the official manager to be heard thereon; and every such compromise, composition, arbitration, or other arrangement shall be subject to such conditions (if any) as to payment of the costs of any actions, suits, or other proceedings, and as to obtaining the consent of creditors, or any proportion of them, as the said judge or master shall think fit to direct.

5. No creditor or claimant shall be prejudiced or affected by any compromise, composition, arbitration, or other arrangement hereinbefore authorised, or by carrying the same into effect, as to his right or remedy against any person other than the members and contributories thereof to whom the same shall relate, nor otherwise than may be provided thereby; and in the event of any such compromise, composition, or other arrangement as mentioned in the 2nd and 3rd sections of this act being made with the contributories or alleged contributories of the said company, or any or either of them, whereby or in consequence whereof all or any of such contributories may be or become discharged from further liability to the creditors of the said company, then and thereupon the creditors of the said company, as regards their rights and remedies against the persons, property, and effects of any persons who were shareholders of the said company at the times when the respective debts or causes of action of such creditors arose, shall be in the same position, and have the same remedies against such former shareholders as last aforesaid, their persons, property, and effects, as if such creditors had obtained execution on a judgment order or decree for the amount of their respective debts against the persons, property, and effects of the contributories of the said company who shall be or become so discharged as aforesaid, and had been unable thereby or otherwise to obtain satisfaction of such judgment decree or order, or debts, from such execution or from such contributories beyond the amount received by such creditors respectively on account of his or their debts out of the monies so paid or satisfied by the said contributories, or any of them, under such composition, compromise, or agreement as aforesaid.

6. All orders, directions, reports, and other proceedings of or before the judge or master under this act shall be subject to the appeals given by the two aforesaid Joint-stock Companies Winding-up Acts, 1848 and 1849; and all orders, directions, reports, and other proceedings of or before the Court of Bankruptcy under this act shall be subject to the appeals given by the Bankrupt-law Consolidation Act, 1849.

7. When any such company heretofore has been or hereafter shall be adjudicated bankrupt, then, if or so soon as creditors' assignees shall have been appointed, or, when any such company shall not have been or be adjudicated bankrupt, then after the judge or master shall by advertisement have called on the creditors to appoint a representative or representatives as hereinbefore mentioned, no such action as is mentioned in the 73rd section of the said Joint-stock Companies Winding-up Act, 1848, shall be commenced or proceeded with, otherwise than for the purpose of making the company bankrupt, nor shall any execution or scire facias be issued or proceeded with against the person, property, or effects of any member or members for the time being of such company, or any former member or members thereof, except by leave of the Court of Bankruptcy where such company has been made bankrupt before an order shall have been made for winding up the company, or of the said judge or master where such company has not been made bankrupt before such order shall have been made; and no time which shall elapse after the appointment of creditors' assignees as aforesaid, or after the said creditors shall be so called on, shall be reckoned as part of the time which by virtue of any statute of limitations or otherwise is or shall be limited for commencing or prosecuting any action, suit, step, or proceeding against the company, or the persons being members or contributories thereof, or any former members or contributories thereof, with reference to or in respect of any debt or demand which might be discharged or affected by any such compromise, composition, arbitration, or other arrangement as is hereinbefore mentioned.

8. On the hearing of the application of any creditor of any such company for leave to commence or proceed with any such action, (otherwise than as aforesaid), or to issue or proceed with a writ of scire facias or execution as aforesaid, it shall be a sufficient ground for refusing such leave if the person against whom or against whose property or effects such action, scire facias, or execution shall be sought to be commenced, issued, or proceeded with, shall give or shall have given to the official assignee, in case such company shall have been declared bankrupt before an order shall have been made for winding up the company, or to the official manager in case such company shall not have been declared bankrupt before such order shall have been made, security to the satisfaction of the Court of Bankruptcy, or of the master or judge, as the case may be, for payment of such sum or sums of money, and upon such terms, and to be applied in such manner, as the said court or the said master or judge shall require, having regard to the debts and liabilities of such company and to the circumstances of the case, and upon payment of such costs as the said Court of Bankruptcy or the said master or judge may think fit: provided always, that such security to the official manager shall be subject to the consent of the representative (if any) for the time being of the creditors of such company, or if there shall be no such representative at the time of giving such security, then the same shall be subject to the consent of the representative of such creditors when appointed.

9. The provisions contained in the 38th, 40th, and 48th sections of the Joint-stock Companies Winding-up Act, 1848, shall extend to and comprise creditors or persons who have claimed to be creditors of the said company, as well as contributories and alleged contributories; and after the judge or master shall have called on the creditors to appoint a repre-

sentative or representatives, as hereinbefore mentioned, such creditors and persons who have claimed to be creditors shall be entitled to attend the proceedings, and to submit such proposals and to inspect such books as in the said sections of the said act are mentioned.

10. It shall be lawful for the judge or master of the High Court of Chancery in England, acting in the winding up of any company, to appoint any person in Ireland, and it shall be lawful for the Master of the High Court of Chancery in Ireland, acting as aforesaid, to appoint any person in England, other than or in addition to the commissioners, judges, and other persons named in the 20th section of the Joint-stock Companies Winding-up Act, 1849, to be commissioners for the purposes and with the same powers and authorities as in the said 20th section of the last-mentioned Winding-up Act are named or referred to in that behalf.

11. Nothing in this act contained shall apply to or affect the rights and remedies of any creditor (unless with his own consent) under or in respect of any judgment obtained against any shareholder in Ireland, which judgment has been, prior to the passing of this act, duly registered in manner required by the act passed in the session of Parliament holden in the thirteenth and fourteenth years of the reign of her present Majesty, intituled "An Act to amend the Laws relating to Judgments in Ireland," or who shall have actually levied execution, or taken proceedings to obtain an attachment; but no such creditor claiming to retain the benefit of such registered judgment, execution, or attachment, and not to be affected by any compromise under this act, shall be entitled to receive any further dividend, or to have recourse to any other remedy or proceeding other than such right and remedies as he may have in respect of such judgment, execution, or attachment against the lands which are affected by the same, until all the other creditors shall have been paid in full.

12. And whereas the dissolution and winding up of unincorporated companies for working mines within and subject to the jurisdiction of the Stannaries can now, in most cases, be conveniently, cheaply, and expeditiously effected in the court of the vice-warden of the Stannaries: be it enacted, that no petition shall hereafter be filed in the Court of Chancery under the Joint-stock Companies Winding-up Acts, 1848 and 1849, by any adventurer or shareholder in such a company, except upon special application to that court, alleging and shewing, to the satisfaction of the court, that the company cannot be effectually dissolved or wound up in the court of the vice-warden, or unless the vice-warden shall certify to the Court of Chancery that the jurisdiction and powers of his court are, under the circumstances, insufficient effectually to dissolve or wind up the same.

13. In all cases where such a petition shall, upon such application or certificate, be filed in the Court of Chancery, the proof of debts and creditors' claims, the sale of machinery and other effects of the company within the Stannaries, and the distribution of the proceeds of such sales, shall be effected under the general direction of the Court of Chancery, but by and through the immediate agency of the vice-warden or registrar of his court, unless it shall appear to the Court of Chancery to be more conducive to the interests or convenience of adventurers and creditors, or to the saving of time or expense, that such proceedings, or any of them, shall take place in the ordinary course and practice of the Court of Chancery, under the Winding-up Acts above referred to.

14. This act shall be taken and construed as a part of the said Joint-stock Companies Winding-up Acts, 1848 and 1849.

15. The words "shareholder," "member," "contributory," and "alleged contributory" shall be severally taken to include all contributories or alleged contributories within the meaning of the said Joint-stock Companies Winding-up Acts, 1848 and 1849, and also all persons who may apprehend or desire to be discharged from responsibility in respect of the debts, liabilities, or obligations of the company.

16. In citing this act in other acts of Parliament, and in legal instruments and in legal proceedings, it shall be sufficient to use the expression "The Joint-stock Companies Winding-up Amendment Act, 1857."

CAP. LXXIX.

An Act to amend the Law relating to Probates and Letters of Administration in Ireland. [25th August, 1857.]

Sect. 1. Commencement of act.
2. Interpretation of terms.
3. Short title of act.
4. Act not to extend to England or Scotland, except &c.
5. Testamentary jurisdiction of ecclesiastical and other courts abolished.
6. Testamentary jurisdiction to be exercised by Court of Probate.
7. Power to her Majesty to appoint judge of the Court of Probate; the first judge to be the present judge of the Prerogative Court.
8. Judge's tenure of office.
9. Judge, before acting, to take oath.
10. Rank and precedence of judge, who shall appoint a secretary and usher.
11. The judge to be a commissioner of charitable donations and bequests.
12. Salaries of judge, secretary, and usher.
13. Repeal of the 7 & 8 Geo. 4, c. 44, as to certain salaries.
14. Judge of Court of Probate to be also judge of the Admiralty Court on the next vacancy.
15. Retiring pensions of judges.
16. District registries to be established, as in Schedule (A.)
17. Lord-Lieutenant may alter districts.
18. Appointment of officers of the Court of Probate.
19. As to appointment of the first officers of the principal registry.
20. Clerks and officers of the Prerogative Court to be transferred to like offices in the Court of Probate.
21. Existing diocesan registrars to be entitled to be appointed district registrars at the same places.
22. Clerk of peace to be appointed district registrar in certain cases.
23. As to appointment to offices. Salaries of officers.
24. Tenure of office of officers.
25. Qualification of registrars and district registrars.
26. Officers of the court to execute their offices in person. Registrars, &c. not to act as proctors, &c.
27. Power to judge to cause seals of the court to be provided.
28. The court to have throughout all Ireland the same powers as the Prerogative Court. Suits for legacies or distribution not to be entertained.
29. Power to examine witnesses. As to the production of deeds, &c.
30. Powers of the court to enforce orders.
31. Order to produce any instrument purporting to be testamentary.
32. Registrars, &c. to have power to administer oaths. Power to appoint also commissioners to administer oaths, &c.
33. Penalty on forging or counterfeiting seals or signatures of officers.
34. Practice of the court.
35. Rules and orders to be made for regulating the procedure of the court.
36. Mode of taking evidence in contentious matters.
37. Court may issue commissions, or give orders for examination of witnesses abroad, or unable to attend.
38. Rules of evidence in common-law courts to be observed.
39. Common-law judges may sit, on request of judge of court.
40. In case of illness, &c. of judge, his duties to be performed by judge of superior courts.
41. Court may cause questions of fact to be tried by a jury before itself, or direct an issue to a court of law.
42. Powers of the court for the trial of questions by a jury.
43. Question to be stated, and jury sworn to try it. Court, on trial, to have the same authority as a judge at Nisi Prius.
44. Court may direct issues to try any fact.
45. Appeal to the House of Lords.
46. Advocates admitted to practise. Barristers may practise in contentious causes.
47. Proctors admitted to practise.
48. Admission of proctors as solicitors.
49. Practitioners.
50. Probates and administrations may be granted in common form by district registrars, if it shall appear by affidavit that the testator had a fixed place of abode.
51. Affidavit to be conclusive for authorising grant of probate.
52. District registrars not to make grants where there is contention, &c.

53. As to transmission of notice of applications for grants of probate, &c. to district registrar.

54. District registrar, in case of doubt as to grant, to take the directions of the judge.

55. District registrars to transmit lists of probates and administrations, and copies of wills.

56. District registrars to preserve original wills.

57. As to caveats.

58. Where personalty is under 200*l*., and real property under 300*l*., assistant barrister to have jurisdiction.

59. Clerk of the peace of the county court to transmit certificate of decree for grant or revocation of probate.

60. The assistant barrister to decide causes and enforce judgments as in other cases.

61. Affidavit of the facts giving the assistant barrister jurisdiction to be conclusive, unless disproved while the matter is pending.

62. As to appeals from the determination of the assistant barrister.

63. Not obligatory to apply for probate, &c. to district registries or assistant barrister, but may in every case be made to Court of Probate.

64. Judge to make rules and orders regulating the procedure of assistant barristers' courts under the act.

65. Where a will affecting real estate is proved in solemn form, or is the subject of a contentious proceeding, the heir and persons interested in the real estate to be cited.

66. Where the will is proved in solemn form, or its validity otherwise decided on, the decree of the court to be binding on the persons interested in the real estate.

67. Heir in certain cases not to be cited, and where not cited not to be affected by probate.

68. Probate or office copy to be evidence of the will in suits concerning real estate, save where the validity of the will is put in issue.

69. As to costs of proof of will.

70. Repeal of sects. 31, 32, and 33 of stat. 19 & 20 Vict. c. 113.

71. Place of deposit of original wills.

72. Judge to cause calendars to be made from time to time in the principal registry, and to be printed.

73. Registrar to transmit printed copies to certain offices.

74. Official copy of whole or part of will may be obtained.

75. Administration pendente lite.

76. Receiver of real estate pendente lite.

77. Remuneration to administrators pendente lite and receivers.

78. Power as to appointment of administrator.

79. The 38 Geo. 3, c. 87, (England), extended to Ireland, and to apply to administrators.

80. After grant of administration no person to have power to sue as an executor.

81. Revocation of temporary grants not to prejudice actions or suits.

82. Payments under revoked probates or administration to be valid.

83. Persons, &c. making payment upon probates granted for estate of deceased person to be indemnified.

84. Rights of an executor renouncing probate to cease as if he had not been named in the will.

85. Sureties to administration bonds.

86. Person to whom grant of administration shall be committed shall give bond.

87. Penalty on bond.

88. Power of court to assign bond.

89. Pending suits transferred to Court of Probate.

90. Power to judges whose jurisdiction is determined to deliver written judgments.

91. Void and voidable probates and administrations.

92. Probates and administrations granted before this act comes into operation.

93. Probate or administration may be granted of personal estate not affected by the former grants.

94. Probates granted in England to be of like force as if originally granted in Ireland on being resealed.

95. Probates granted in Ireland to be of like force as if originally granted in England on being resealed.

96. Judges of present ecclesiastical courts and others to transmit all wills, &c. to the registry.

97. Penalty for default.

98. As to depositories for safe custody of the wills of living persons.

99. This act not to affect the stamp duties on probates and administrations.

100. The registrars to deliver copies of wills, &c. to the Commissioners of Inland Revenue.

101. Sects. 9 and 10 of the 54 Geo. 3, c. 68, repealed in part as to the Court of Probate.

102. Table of fees to be taken by officers of court and by officers of assistant barristers' courts.

103. Taxation of costs.

104. Fees not to be paid in money, but by stamps.

105. Provisions of acts relating to stamps to be applicable to stamps for collecting fees.

106. No document to be received or used unless stamped.

107. Officers of the court may be dismissed for fraud or wilful neglect in relation to stamps.

108. Salary of the judge and compensations to be charged on the Consolidated Fund.

109. Salaries and expenses not charged on the Consolidated Fund to be paid out of monies to be provided by Parliament.

110. Persons receiving compensation to continue to discharge the remaining duties of their offices.

111. Persons receiving compensations to be liable to serve in any public office in Ireland.

112. Compensation to proctors.

113. Compensation to proctors in partnership.

114. Establishments in district registries.

115. Fees payable to district registrars. District registrars may be paid by salaries instead of fees.

116. Publication of accounts.

117. Treasury to provide the buildings for registries, &c.

118. Accountant-General of Court of Chancery to act for Court of Probate.

119. Compensation to registrars, &c. of existing courts.

120. Compensation to A. Hawkins.

121. Rules and orders to be laid before Parliament.

CAP. LXXX.

An Act to amend the Joint-stock Companies Act, 1856. [25th August, 1857.]

Sect. 1. *Joint-stock Companies Acts*, 1856, 1857, *not to be deemed to repeal the 7 & 8 Vict. c.* 110, *&c., as respects insurance companies. Proviso.*

Whereas it is expedient that a further amendment should be made in the Joint-stock Companies Act, 1856: be it enacted &c. as follows:—

Sect. 1. The Joint-stock Companies Acts, 1856, 1857, shall not, nor shall either of them, be deemed to have repealed, as respects companies already formed for the purpose of carrying on the business of insurance, under the act passed in the eighth year of her present Majesty, c. 110, or as respects companies hereafter to be formed for the said purpose, the said act passed in the eighth year of her present Majesty, c. 110, or any other act amending the same or relating to such companies: provided, that if any insurance company, formed under the said act of the eighth year of her present Majesty, or the directors of or shareholders in any such company, have, during the interval between the passing of the said Joint-stock Companies Act, 1856, and of this act, acted as if the said act of the eighth year of her present Majesty had, as to such company, been repealed by the said Joint-stock Companies Act, 1856, then, so far as affects the mutual rights and relations of the said company, its directors and officers, and late or present shareholders, and so far as affects any penalties which the said company, or its directors, officers, or shareholders, may have incurred by non-observance of the said act of the eighth year of her present Majesty, the said act of the eighth year of her present Majesty shall, as regards the actions of the said company, its directors and shareholders, during such interval as aforesaid, be deemed to have been repealed.

CAP. LXXXI.

An Act to amend the Burial Acts. [25th August, 1857.]

Sect. 1. *Approval of a majority of vestries of parishes sufficient for acts done by burial boards acting for more than two parishes.*

2. *Joint burial boards may be dissolved.*

3. *Burial boards may provide more than one burial-ground.*

4. *Local board of health may, by Order in Council, be constituted a burial board.*
5. *Burial board may be established for a district not maintaining its own poor, and which has had no separate burial-ground.*
6. *Ordinary of diocese may consecrate the whole or part of land belonging to any parish for the burial of poor persons.*
7. *Provision for transfer to a burial board of a burial-ground provided under Church Building Acts.*
8. *Vestry of parish in which burial-ground is closed may purchase such burial-ground if not belonging to parish.*
9. *Burial boards not to be appointed for united parishes, &c., in cases provided for by the* 18 & 19 *Vict. c.* 128, *without consent of Secretary of State, where one of the places separately maintains its own poor, or has a burial-ground.*
10. *Orders in Council may be made for regulating burial-grounds, &c.*
11. *No wall or fence required between the consecrated and unconsecrated portions of burial-ground. Boundary marks to be provided.*
12. *Appeal.*
13. *Power to incumbent or curate to bury in burial-ground certified by Secretary of State prior to consecration.*
14. *Sect.* 32 *of the* 3 *Geo.* 4, *c.* 126, *exempting funerals from tolls, extended to funerals in burial-grounds provided for the parish, although not within its limits.*
15. *Persons wilfully destroying &c. register-book of burials guilty of felony.*
16. *Sect.* 4 *of the* 52 *Geo.* 3, *c.* 146, *not to apply to burials in grounds provided under the Burial Acts.*
17. *Fees for service done in unconsecrated portion of burial-ground to be identical as for consecrated portion.*
18. *So much of sect.* 20 *of the* 15 & 16 *Vict. c.* 85, *as to payment of money borrowed repealed.*
19. *Clauses of the* 10 & 11 *Vict. c.* 16, *with respect to mortgages incorporated.*
20. *Sinking fund to be provided for paying off mortgages.*
21. *Power to burial boards to borrow money on terminable annuities.*
22. *Power to councils of boroughs to make a separate rate for burial and expenses.*
23. *Orders in Council may be issued, on representation of Secretary of State, so as to prevent vaults, &c. being dangerous to health.*
24. *Trustees of closed cemeteries empowered, with the sanction of Secretary of State, to let, lease, or sell portions thereof which have not received interments.*
25. *Bodies not to be removed from burial-grounds save under faculty, without license of Secretary of State.*
26. *Burial boards may in certain cases purchase cemeteries which have been closed. Orders in Council to remain in force.*
27. *Resolutions, &c. of vestries not to be void by reason of irregularity of notices, &c.*
28. *"Burial board."*
29. *Construction of certain expressions used in the* 17 & 18 *Vict. c.* 87.
30. *Recited acts and this to be as one.*

Whereas an act was passed in the session holden in the 15 & 16 Vict. (c. 85) "to amend the Laws concerning the Burial of the Dead in the Metropolis;" and an act was passed in the session holden in the 16 & 17 Vict. (c. 134) "to amend the Laws concerning the Burial of the Dead in England beyond the Limits of the Metropolis, and to amend the Act concerning the Burial of the Dead in the Metropolis;" and an act was passed in the session holden in the 17 & 18 Vict. (c. 87) "to make further Provision for the Burial of the Dead in England beyond the Limits of the Metropolis;" and acts were passed in the session holden in the 18 & 19 Vict. (cc. 78, 128) "to amend the Laws concerning the Burial of the Dead in England:" and whereas it is expedient to amend the said acts: be it therefore enacted &c. as follows:—

Sect. 1. All acts authorised to be done by any burial board, with the approval, sanction, or authority of the vestry or vestries of the parish or parishes for which such board is constituted, may, where a joint burial board is constituted for more than two parishes, be done with the approval, sanction, or authority (as the case may require) of the vestries of the majority of such parishes.

2. Where the vestries of two or more parishes have agreed to provide one burial-ground for the common use of such parishes, such vestries may, at any time before such burial-ground has been provided, determine the union between such parishes under such agreement, and upon such union being so determined all the provisions of the said acts and this act shall be applicable, with regard to such parishes and the respective burial boards thereof, as if such union had not been formed, save that any expenses already properly incurred by the joint burial board for such parishes shall be defrayed as provided by the said acts.

3. Any burial board may, if they see fit, with the approval of one of her Majesty's Principal Secretaries of State, provide more than one burial-ground, and may, if they see fit, with such approval, instead of setting apart a portion of any burial-ground, for the purpose of such portion being used as unconsecrated ground, provide separate and distinct grounds to be used respectively as consecrated and unconsecrated burial-grounds: where before the passing of this act any burial board has provided more than one burial-ground, or has (instead of setting apart a portion of any burial-ground for the purpose of being used as unconsecrated ground) provided separate and distinct grounds as consecrated and unconsecrated burial-grounds, such burial board shall be deemed to have acted lawfully and in accordance with the said acts.

4. In case it appear to her Majesty in Council, upon the petition of the local board of health of any district established under the Public Health Act, or upon the petition of any commissioners elected by the ratepayers, and acting under or by virtue of the powers of any local act of Parliament for the improvement of any town, parish, or borough, stating that the district of such local board of health or of such commissioners is co-extensive with a district for which it is proposed to provide a burial-ground, and that no burial board has been appointed for such district, and that an Order in Council has been made for closing all or any of the burial-grounds within the said district, it shall be lawful for her Majesty, with the advice of her Privy Council, in case her Majesty see fit so to do, to order that such local board shall be a burial board for the district of such local board, or that such commissioners shall be a burial board for the district of such commissioners, and thereupon such local board or such commissioners, as the case may be, shall be a burial board for such district accordingly; and the powers and provisions of the acts hereinbefore mentioned, (except the provisions relating to the constitution or appointment and resignation of members of burial boards), and the provisions herein contained, shall extend to the district of such board, and to such board, or to the district of such commissioners, and to such commissioners, and to any burial-ground and places for the reception of the bodies of the dead previously to interment which may be provided by such board or by such commissioners, in like manner as to any parish or parishes and the burial board thereof, and any burial-ground and any such places as aforesaid provided by such last-mentioned board, save that no approval, sanction, or authorisation of any vestry shall be requisite: provided always, that notice of such petition, and of the time when it shall please her Majesty to order the same to be taken into consideration by the Privy Council, shall be published in the London Gazette, and in one of the newspapers usually circulating in the district of such local board or of such commissioners, one month at least before such petition is so considered: provided also, that this enactment shall not apply to any such district as aforesaid exclusively consisting of the whole or part of one corporate borough within the meaning of the Public Health Act, 1848.

5. The vestry, or meeting in the nature of a vestry, of any parish, new parish, township, or other district not separately maintaining its own poor, and which has had no separate burial-ground, may appoint a burial board; and such vestry or meeting, and the burial board appointed by it, shall exercise and have all the powers which they might have exercised and had under the said acts and this act if such parish, new parish, township, or district had had a separate burial-ground before the passing of the said act of the 18 & 19 Vict.: provided

always, that all the powers of any other vestry or meeting and burial board, if any, shall then cease and determine, so far as relates to such parish, new parish, township, or district as aforesaid; and until a burial-ground shall be so provided as aforesaid and consecrated for any new parish or district created or to be created pursuant to the provisions of the 6 & 7 Vict. c. 37, the 7 & 8 Vict. c. 94, and the 19 & 20 Vict. c. 104, or any or either of them, and to which the said acts, or any or either of them, may apply, the incumbent of such new parish or district (if any burial-ground has been or shall be provided under the herein-recited acts for the burial of the dead, or any or either of them, for any parish or parishes, out of rates to which such new parish or district, or any part thereof, shall have contributed or contribute or be liable) shall, with respect to the burial in such last-mentioned burial-ground of the remains of the parishioners or inhabitants of such new parish or district, or of such part thereof as shall have contributed or contribute as aforesaid, as the case may be, perform the same duties, and have the same rights, privileges, and authorities, and be entitled to the same fees, and also the clerk and sexton of such new parish or district shall, when necessary, respectively perform the same duties, and be entitled to the same fees, in respect of such burials, as if the said burial-ground were exclusively the burial-ground of such new parish or district, subject nevertheless to all provisions to which the incumbents, clerks, and sextons of original parishes are respectively subject in and by the said Burial Acts, or any or either of them: provided also, that nothing herein contained shall affect the rights or privileges of any existing incumbent, clerk, or sexton, without the consent of such incumbent, clerk, or sexton respectively.

6. Where the guardians of any parish or union are or shall hereafter become possessed of any land suitable to the purposes of a burial-ground, and the Poor-law Board shall consent to the same being appropriated to the reception of the dead bodies of any poor persons whom such guardians shall be authorised or required by law to bury, it shall be lawful for the ordinary of the diocese wherein such land shall be situated, if he see fit, to consecrate the whole or a part of such land for burial purposes, and after consecration the guardians may lawfully direct any such dead body as aforesaid to be buried therein; and the land so consecrated shall not thenceforth be used for any other purposes than for burials according to the rites of the United Church of England and Ireland, and shall be kept in decent order; and the fences thereof, and any building or other erection therein or adjoining thereto used for the performance of the burial service, shall be maintained in good repair by the guardians, out of the common fund of such parish or union: provided nevertheless, that the guardians shall not be authorised to direct the body of any poor person to be buried in such grounds who, or whose husband, wife, or next of kin, shall, by letter addressed to the master of the workhouse or otherwise, have expressly desired burial to take place elsewhere.

7. Where a burial-ground has been provided for any parish under any of the acts commonly referred to or known as the Church Building Acts, and the same has been consecrated, and any money expended in providing such burial-ground has been borrowed on the security of the church rates, it shall be lawful for the incumbent of the parish, with the consent of the ordinary and the burial board of such parish, or of any borough or district in which such parish is wholly or in part comprised, by instrument in writing under the hands and seals of such incumbent and ordinary, and under the seal of the said burial board, to declare, that in consideration of the payment of the debt by the said burial board, or of such sum as shall be mutually agreed upon, with the consent of the persons, signified in writing under their hands, to whom two-thirds of such debt is due, the said burial-ground shall be vested in and be under the care and management of such burial board, and thereupon the same shall be vested in and be under the care and management of such board, and shall be subject to the provisions of the hereinbefore-recited acts and this act applicable to a consecrated burial-ground or the consecrated part of any burial-ground provided by any burial board; and any money borrowed as aforesaid, and remaining owing, and the interest due and to become due thereon, and all costs and expenses occasioned by the non-payment thereof, or incurred in providing such burial-ground, and then remaining unpaid, shall be charged on and paid out of such rates or fund as under the said last-mentioned acts and this act would be chargeable with the expense of providing a burial-ground by such board, and such declaration as aforesaid shall be registered in the registry of the diocese; and such board may, with the approval of the vestry, enlarge such burial-ground, by the addition of ground to be used for burials otherwise than according to the rites of the Church of England, and to be used subject to the provisions of the acts herein recited and of this act in respect to the unconsecrated portions of burial-grounds.

8. It shall and may be lawful for the vestry of any parish in which any burial-ground closed by Order in Council may be situate, and which does not belong to such parish, by resolution of the vestry at a meeting called for that purpose, to purchase such burial-ground, and from the time of such purchase such burial-ground shall belong to such parish, and be subject to all the conditions affecting the burial-grounds of the parish in which the same is situate.

9. And whereas, by the said act of the 18 & 19 Vict. c. 128, it is enacted, that where a parish or place has been united with any other parish or place, parishes or places, for all or any ecclesiastical purposes, or where two or more parishes or places have heretofore had a church or a burial-ground for their joint use, or where the inhabitants of several parishes or places have been accustomed to meet in one vestry for purposes common to such several parishes or places, it shall be lawful for the vestry, or any meeting in the nature of a vestry, of such several parishes or places, in any of the cases aforesaid, and whether any one or more of such parishes or places do or do not separately maintain its own poor, to appoint a burial board, and from time to time to supply vacancies therein, and to exercise the same powers of authorisation, approval, and sanction in relation to such burial board, and such other powers, as under the acts therein recited and that act are vested in the vestry of a parish or place separately maintaining its own poor: where any of the several parishes or places under the circumstances provided for in the said enactment separately maintains its own poor, or has a separate burial-ground, it shall not be lawful for the vestry, or meeting in the nature of a vestry, of such several parishes or places to appoint a burial board under the said enactment without the approval of one of her Majesty's Principal Secretaries of State; and in case it appear to the Secretary of State that any such parish or place has a sufficient burial-ground, or that otherwise it would not be expedient that the powers given by the said enactment should be exercised in relation to such parish or place, the Secretary of State may direct that such parish or place shall be excepted from the operation of the said enactment, and thereupon the same shall be excepted accordingly; and the inhabitants of the remaining parish or parishes, place or places, may assemble in vestry, or in a meeting in the nature of a vestry, from time to time, and in such vestry or meeting may proceed in like manner under the said acts and this act in all respects as if the inhabitants of such last-mentioned parish or parishes, place or places, exclusively had a vestry for their common purposes, and were wholly unconnected with the parish or place so excepted.

10. It shall be lawful for her Majesty, by order made by and with the advice of her Privy Council, on the representation of one of her Majesty's Principal Secretaries of State, from time to time to establish such regulations as to her Majesty may seem proper for the protection of the public health, and for the maintenance of public decency, in respect of all burials in common graves in any cemeteries named in Schedule (B.) to the act 15 & 16 Vict. c. 85, and in respect of the like burials in any cemetery established under the authority of any local act of Parliament; and every such Order in Council shall be published in the London Gazette; and all persons having the care of such cemeteries and burial-grounds and places shall conform to and obey such regulations; and any such person who shall violate or wilfully neglect to observe any of such regulations shall, on summary conviction thereof before two justices of the peace, forfeit and pay any sum not exceeding 10*l.*; provided always, that no such representation shall be made in relation to any cemetery or burial-ground until ten days' previous notice in writing of the intention to make such representation shall have been given to the person or one of the persons having the control or care of such cemetery or burial-ground.

11. It shall not be necessary to erect or maintain any wall or fence between the consecrated and the unconsecrated portions of any burial-ground provided under the hereinbefore recited acts and this act, or any of them: provided always, that in the case of any burial-ground where there shall be no such

wall or fence, it shall be the duty of the burial board having the care of such burial-ground to place, and from time to time to repair and renew, such boundary marks of stone or iron as may be sufficient to shew the boundaries of such consecrated and unconsecrated portions respectively.

12. If, upon the application in writing by any burial board to the bishop of the diocese for the consecration of a burial-ground, declared in such writing to be in a fit and proper condition for the purpose of interment according to the rites of the United Church of England and Ireland, which application the board is required to make as soon as such ground is in such fit and proper condition, the said bishop shall refuse to consecrate the same, it shall be lawful for such burial board to appeal from such refusal to the archbishop of the province, who shall decide the matter in dispute; and if the said archbishop shall decide that the said burial-ground is not in a fit and proper condition as aforesaid, then the board shall be bound to put the said ground in a fit and proper condition; and if the said archbishop shall decide that the said burial-ground is in a fit and proper condition as aforesaid, and ought to be consecrated, such decision shall be communicated in writing by the archbishop to the bishop aforesaid; and if after such communication the said bishop shall not within one calendar month consecrate the said burial-ground, the said archbishop shall, under his hand and seal, license the same for the interment of bodies according to the rites of the United Church of England and Ireland, and the license of the said archbishop so granted as aforesaid shall, until such burial-ground be consecrated, operate to make lawful the use of the same as if it had been consecrated.

13. In any burial-ground provided under the powers of the acts hereinbefore recited or this act, respecting which one of her Majesty's Principal Secretaries of State shall have certified that the necessary provisions have been complied with, it shall be lawful for the incumbent or incumbents of such parish or parishes for which such burial-ground is provided, or his or their curate or curates, or such duly qualified person as any such incumbent may authorise, if such incumbent, curate, or such duly qualified person respectively think fit, to bury in such burial-ground prior to the decision of the bishop or archbishop upon the application for the consecration thereof.

14. Whereas, by sect. 32 of the 3 Geo. 4, c. 126, it is enacted, that no toll shall be demanded or taken by virtue of that or any other act or acts of Parliament on any turnpike-road of or from any inhabitant of any parish, township, or place going to or returning from attending the funeral of any person who shall die and be buried in the parish, township, or place in which any turnpike-road shall lie, from and after the 1st July, 1858, or from and after the termination of any now existing lease of tolls expiring before that date: the said enactment shall extend to exempt from toll every person going to or returning from attending the funeral of any person who shall be buried in any burial-ground provided for the parish, township, or place in which he died, under the acts hereinbefore recited, and this act, or any of them, or under any other act of Parliament, although such burial-ground be not within the limits of the parish, township, or place for which it may have been provided, or in which the turnpike-road shall lie.

15. That every person who shall wilfully destroy or injure, or cause to be destroyed or injured, any register-book of burials kept according to the provisions of this act, or any part or certified copy of any part of such register, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, any part of any such register or certified copy thereof, or shall wilfully insert or cause to be inserted in any register-book or certified copy thereof any false entry of any burial, or shall wilfully give any false certificate, or shall certify any writing to be a copy or extract of any such register-book, knowing the same to be false in any part thereof, or shall forge or counterfeit the seal of any burial board, shall be guilty of felony.

16. Whereas, by the act of the 52 Geo. 3, c. 146, s. 4, it is provided, that whenever the ceremony of burial shall be performed in any other place than the parish church or churchyard of any parish, (or the chapel or chapelyard of any chapelry providing its own distinct registers), and such ceremony shall be performed by any minister not being the rector, vicar, minister, or curate of such parish or chapelry, the minister who shall perform such ceremony of burial shall on the same or on the next day transmit to the rector, vicar, or other minister of such parish or chapelry, or his curate, a certificate of such burial, and the rector, vicar, minister, or curate of such parish or chapelry shall thereupon enter such burial according to such certificate in the book kept pursuant to that act for such purpose; and whereas distinct registers are by law required to be kept in the burial-grounds provided under the burial acts: the recited enactment of the said act of Geo. 3 shall not apply in any case where the ceremonial of burial is performed in a burial-ground provided or to be provided under the acts of her Majesty hereinbefore recited, and this act, or any of them.

17. No fees shall be charged or received by any burial board in respect of any service done or right granted in the unconsecrated portion of any burial-ground provided by such board, but such as are identical in amount with the fees charged and received in respect of the same service or right in the consecrated portion of such ground, less any such portion of such corresponding fees or payments which may be received for or on account of any incumbent, churchwarden, clerk, or sexton, or of any trustee for or on behalf of any incumbent, churchwarden, clerk, or sexton.

18. So much of sect. 20 of the firstly hereinbefore-recited act as requires "that there shall be paid in every year, in addition to the interest of the money borrowed and unpaid, not less than one twentieth of the principal sum borrowed, until the whole is discharged," shall be repealed, and the provisions of the other acts hereinbefore recited to which the said section has been extended shall be construed accordingly.

19. The clauses of the Commissioners Clauses Act, 1847, with respect to mortgages to be executed by the commissioners, shall be incorporated with this act, and shall apply to mortgages and other securities to be executed by burial boards; and for the purposes of this act the expression "the commissioners," where used in the said clauses, shall mean the burial board acting in the execution of the said clauses and the acts hereinbefore recited or this act.

20. Provided always, that for the purpose of providing a sinking fund for paying off the principal money borrowed on mortgages granted under any of the said acts or this act, the burial board shall once in every year set aside, out of the monies charged by such mortgages, such sum as they think proper, being a sum equal to or exceeding one-fiftieth part of the principal money so borrowed.

21. Any burial board or council of a borough may, for the purpose of raising money, instead of making mortgages under any of the said acts, grant terminable annuities for a life or lives, or for any number of years not exceeding thirty years, to be paid out of the like monies as provided with regard to the monies secured by such mortgages.

22. Any money required by the council of any borough for the purpose of defraying the expense of executing the acts hereinbefore recited, or any of them, or this act, or for paying any monies borrowed under such act, or any interest thereon, may be raised by such council, if they think fit, by means of a separate rate, to be called a burial rate, to be charged upon all property within such borough liable to be charged to the borough rate; and the council of such borough shall have all such powers for making and levying such rate, and all provisions shall be applicable in respect thereof, as in the case of a borough rate made under the 5 & 6 Will. 4, c. 76.

23. It shall be lawful for her Majesty, upon the representation of one of her Majesty's Principal Secretaries of State, by and with the advice of her Privy Council, from time to time to order such acts to be done, by or under the directions of the churchwardens or such other persons as may have the care of any vaults or places of burial, for preventing them from becoming or continuing dangerous or injurious to the public health; and every such Order in Council shall be published in the London Gazette, and such churchwardens or other persons shall do or cause to be done all acts ordered as aforesaid, and the expenses incurred in and about the doing thereof shall be paid out of the poor rates of the parish: provided always, that no such representation shall be made until ten days' previous notice of the intention to make such representation shall have been given to the churchwardens or other persons, or one of the churchwardens or other persons, having the care of the vaults or places of burial to which the representation relates.

24. In all cases in which unconsecrated land or buildings is or are vested in a trustee or trustees, either under any local act or otherwise, for the purposes of a cemetery or burial-ground, and burials in such cemetery or burial-ground shall, by Order in Council under the hereinbefore-recited acts, or any of them, have been ordered to be wholly or partially discontinued, it

shall be lawful for the trustee or trustees for the time being of such cemetery or burial-ground, from time to time, with the sanction of one of her Majesty's Principal Secretaries of State, to let, demise, or lease any part or parts, in which no interment shall have taken place, of such land or buildings, and to renew or accept surrenders of any leases or tenancies thereof, and to sell and absolutely dispose thereof for money in gross, or for any perpetual or other rent or rents to be made payable thereout, and by public auction or private contract, and to sell all or any such perpetual or other rent or rents for money in gross, and in manner aforesaid, and for any of the purposes aforesaid to make and execute any contracts, conveyances, leases, or other assurances, and to take any measures and make any arrangements which may be deemed expedient; and upon any such lease or sale as aforesaid a grant or conveyance by such trustee or trustees alone shall be a sufficient assurance of the property thereby purported to be leased or sold, and the receipts of such trustee or trustees shall be effectual discharges for the monies therein expressed to have been received, and shall absolve any lessee or purchaser from having to see to, or being answerable for, the application of such monies; and the net monies to be received by such trustee or trustees, under any of the preceding powers, shall be applied by them in discharge of any incumbrances affecting such cemetery or burial-ground, and any debts which such trustee or trustees may have properly incurred in their fiduciary capacity; and any residue of such monies shall, where such land or buildings shall have been held in trust for any parish, be applied in such manner, for the benefit of such parish, as the vestry of such parish shall direct; but where such land or buildings shall have been held in trust for the benefit of private persons, such residue shall be divided by such trustee or trustees rateably among the cestuis que trust; and it shall be lawful for such trustee or trustees so to apply any reserved fund in his or their hands.

25. Except in the cases where a body is removed from one consecrated place of burial to another by faculty granted by the ordinary for that purpose, it shall not be lawful to remove any body, or the remains of any body, which may have been interred in any place of burial, without license under the hand of one of her Majesty's Principal Secretaries of State, and with such precautions as such Secretary of State may prescribe as the condition of such license; and any person who shall remove any such body or remains contrary to this enactment, or who shall neglect to observe the precautions prescribed as the condition of the license for removal, shall, on summary conviction before any two justices of the peace, forfeit and pay for every such offence a sum not exceeding 10*l*.

26. Where any cemetery in which burials have, by Order in Council under the hereinbefore-recited acts, or any of them, been ordered to be discontinued, is adjoining or near to any land appropriated or about to be appropriated by any burial board for the purposes of a burial-ground, and appears to such board eligible for the purpose of appropriating or erecting buildings for or making approaches to such burial-ground, it shall be lawful for such board, with the approval of the vestry or respective vestries, to purchase such cemetery; and where in the like case any cemetery has been so purchased before the passing of this act, the purchase thereof shall be deemed to have been lawful: provided always, that, notwithstanding such purchase, such Order in Council shall remain in full force and effect in relation to such cemetery.

27. No resolution or proceeding of any vestry, or meeting in the nature of a vestry, for the purposes of the said recited acts and this act, or any of them, shall be void or voidable by reason of any defect or irregularity of or in notice of such vestry or meeting, or any other error in form in the calling of such vestry or meeting, or in the proceedings thereat, unless notice in writing of such defect or irregularity or error shall have been given at such vestry or meeting, or within seven days after the day of the holding thereof, to the churchwardens or other persons to whom it belongs to call meetings of such vestry, or such meeting in the nature of a vestry, who shall thereupon call another meeting for the purpose of considering the previous resolution or proceeding, or the matter thereof; and no such resolution and proceeding made or taken at any such vestry, or meeting in the nature of a vestry, before the passing of this act, which shall not have been objected to by notice in writing to such churchwardens or persons as aforesaid, shall be deemed invalid by reason of any such defect, irregularity, or error.

28. In the construction of this act the expression "burial board" shall mean a burial board constituted under the hereinbefore-recited acts, or any of them, or under this act.

29. That the expression "borough," whenever used in the said act of the 17 & 18 Vict. [c. 87], shall be construed to include any city, borough, port, cinque port, or town corporate named in the schedules annexed to an act passed in the 6 Will. 4, intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales," and to any city, borough, port, cinque port, or town corporate incorporated by charter granted or to be granted in pursuance of that or any subsequent act; and the words "town council of any borough," or "council of any borough," wherever used in the said act of the 17 & 18 Vict. [c. 87], shall (as well with respect to all past as to future proceedings under the same act, and for the purpose of confirming and making valid all such past proceedings) be construed to mean town council or council of any city, borough, port, cinque port, or town corporate.

30. The hereinbefore-recited acts and this act shall be construed together as one act.

CAP. LXXXII.

An Act to authorise the Embodying of the Militia.
[25th August, 1857.]

Sect. 1. Power to her Majesty, &c. to cause the militia to be drawn out and embodied.

2. Provisions of acts relating to the militia extended to this act.

3. Provisions requiring the meeting of Parliament within fourteen days not to apply.

4. Pay of militia drawn out to commence from the time appointed for their assembling.

5. Sect. 4 of the 17 & 18 Vict. c. 13, (concerning service of notices), to apply to this act.

CAP. LXXXIII.

An Act for more effectually preventing the Sale of Obscene Books, Pictures, Prints, and other Articles.
[25th August, 1857.]

Sect. 1. *Justices, &c. may authorise search of suspected premises.*
2. *Tender of amends, &c.*
3. *Limitation of actions.*
4. *Appeal.*
5. *Act not to extend to Scotland.*

Whereas it is expedient to give additional powers for the suppression of the trade in obscene books, prints, drawings, and other obscene articles: be it enacted &c. as follows:—

Sect. 1. It shall be lawful for any metropolitan police magistrate or other stipendiary magistrate, or for any two justices of the peace, upon complaint made before him or them upon oath that the complainant has reason to believe, and does believe, that any obscene books, papers, writings, prints, pictures, drawings, or other representations are kept in any house, shop, room, or other place within the limits of the jurisdiction of any such magistrate or justices, for the purpose of sale or distribution, exhibition for purposes of gain, lending upon hire, or being otherwise published for purposes of gain, which complainant shall also state upon oath that one or more articles of the like character have been sold, distributed, exhibited, lent, or otherwise published as aforesaid, at or in connexion with such place, so as to satisfy such magistrate or justices that the belief of the said complainant is well founded, and upon such magistrate or justices being also satisfied that any of such articles so kept for any of the purposes aforesaid are of such a character and description that the publication of them would be a misdemeanour, and proper to be prosecuted as such, to give authority by special warrant to any constable or police officer into such house, shop, room, or other place, with such assistance as may be necessary, to enter in the daytime, and, if necessary, to use force, by breaking open doors or otherwise, and to search for and seize all such books, papers, writings, prints, pictures, drawings, or other representations as aforesaid found in such house, shop, room, or other place, and to carry all the articles so seized before the magistrate or justices issuing the said warrant, or some other magistrate or justices exercising the same jurisdiction; and such magistrate or justices shall thereupon issue a summons calling upon the occupier of the house or other place which may have been so entered by virtue of the said warrant to appear within seven days before such police stipendiary magistrate, or any two justices in petty sessions for the district, to shew cause why the articles so seized should not be destroyed; and if such occupier, or some other person claiming to be the owner of the said articles, shall not appear within the time aforesaid, or shall appear, and such magistrate or justices shall be satisfied that such articles, or any of them, are of the character stated in the warrant, and that such, or any of them, have been kept for any of the purposes aforesaid, it shall be lawful for the said magistrate or justices, and he or they are hereby required, to order the articles so seized, except such of them as he or they may consider necessary to be preserved as evidence in some further proceeding, to be destroyed at the expiration of the time hereinafter allowed for lodging an appeal, unless notice of appeal as hereinafter mentioned be given, and such articles shall be in the meantime impounded; and if such magistrate or justices shall be satisfied that the articles seized are not of the character stated in the warrant, or have not been kept for any of the purposes aforesaid, he or they shall forthwith direct them to be restored to the occupier of the house or other place in which they were seized.

2. No plaintiff shall recover in any action for any irregularity, trespass, or other wrongful proceeding made or committed in the execution of this act, or in, under, or by virtue of any authority hereby given, if tender of sufficient amends shall have been made by or on behalf of the party who shall have committed such irregularity, trespass, or other wrongful proceeding before such action brought; and in case no tender shall have been made, it shall be lawful for the defendant in any such action, by leave of the court where such action shall depend, at any time before issue joined, to pay into court such sum of money as he shall think fit, whereupon such proceeding, order, and adjudication shall be had and made in and by such court as in other actions where defendants are allowed to pay money into court.

3. No action, suit, or information, or any other proceeding, of what nature soever, shall be brought against any person for anything done or omitted to be done in pursuance of this act, or in the execution of the authorities under this act, unless notice in writing shall be given by the party intending to prosecute such action, suit, information, or other proceeding, to the intended defendant one calendar month at least before prosecuting the same, nor unless such action, suit, information, or other proceeding shall be brought or commenced within three calendar months next after the act or omission complained of, or in case there shall be a continuation of damage, then within three calendar months next after the doing such damage shall have ceased.

4. Any person aggrieved by any act or determination of such magistrate or justices in or concerning the execution of this act may appeal to the next general or quarter sessions for the county, riding, division, city, borough, or place in and for which such magistrate or justices shall have so acted, giving to the magistrate or justices of the peace whose act or determination shall be appealed against, notice in writing of such appeal, and of the grounds thereof, within seven days after such act or determination, and before the next general or quarter sessions, and entering within such seven days into a recognisance, with sufficient surety, before a justice of the peace for the county, city, borough, or place in which such act or determination shall have taken place, personally to appear and prosecute such appeal, and to abide the order of, and pay such costs as shall be awarded by, such court of quarter sessions, or any adjournment thereof; and the court at such general or quarter sessions shall hear and determine the matter of such appeal, and shall make such order therein as shall to the said court seem meet; and such court, upon hearing and finally determining such appeal, shall and may, according to their discretion, award such costs to the party appealing or appealed against as they shall think proper; and if such appeal be dismissed, or decided against the appellant, or be not prosecuted, such court may order the articles seized forthwith to be destroyed: provided always, that it shall not be lawful for the appellant, on the hearing of any such appeal, to go into or give evidence of any other grounds of appeal against any such order, act, or determination than those set forth in such notice of appeal.

5. This act shall not extend to Scotland.

CAP. LXXXIV.

An Act for confirming a Scheme of the Charity Commissioners for the College of God's Gift in Dulwich, in the County of Surrey, with certain Alterations. [25th August, 1857.]

CAP. LXXXV.

An Act to amend the Law relating to Divorce and Matrimonial Causes in England. [28th August, 1857.]

Sect. 1. *Commencement of act.*
2. *Jurisdiction in matters matrimonial now vested in ecclesiastical courts to cease.*
3. *The court may enforce decrees or orders made before this act comes into operation.*
4. *As to suits pending when this act comes into operation.*
5. *Power to judges whose jurisdiction is determined to deliver written judgments.*
6. *Jurisdiction over causes matrimonial to be exercised by the Court for Divorce and Matrimonial Causes.*
7. *No decree for divorce à mensâ et thoro to be made hereafter, but a judicial separation.*
8. *Judges of the court.*
9. *Judge of the Court of Probate to be the judge ordinary, and shall have full authority, &c.*
10. *Petitions for dissolution of marriage, &c. to be heard by three judges.*
11. *Who to act as judge during the absence of the judge ordinary.*
12. *Sittings of the court.*
13. *Seal of the court.*
14. *Officers of the court.*
15. *Power to advocates, barristers, &c. of ecclesiastical and superior courts to practise in the court.*
16. *Sentence of judicial separation may be obtained by husband or wife for adultery, &c.*
17. *Application for restitution of conjugal rights or judicial separation may be made by husband or wife by petition to court, &c.*
18. *Powers of judges of assize for purposes of deciding applications under authority of this act.*
19. *The court to regulate fees on proceedings before judges, &c.*
20. *Orders may be reviewed.*
21. *Wife deserted by her husband may apply to a police magistrate or justices in petty sessions for protection.*
22. *Court to act on principles of the ecclesiastical courts.*
23. *Decree of separation obtained during the absence of husband or wife may be reversed.*
24. *Court may direct payment of alimony to wife or to her trustee.*
25. *In case of judicial separation the wife to be considered a feme sole with respect to property she may acquire &c.*
26. *Also for purposes of contract and suing.*
27. *On adultery of wife, or incest, &c. of husband, petition for dissolution of marriage may be presented. As to "incestuous adultery."*
28. *Adulterer to be a co-respondent. Cause may be tried by a jury.*
29. *Court to be satisfied of absence of collusion.*
30. *Dismissal of petition.*
31. *Power to court to pronounce decree for dissolving marriage.*
32. *Alimony.*
33. *Husband may claim damages from adulterer.*
34. *Power to court to order adulterer to pay costs.*
35. *Power to court to make orders as to custody of children.*
36. *Questions of fact may be tried before the court.*
37. *Where a question is ordered to be tried a jury may be summoned, as in the common-law courts. Rights to challenge.*
38. *Such question to be reduced into writing, and a jury to be sworn to try it. Judge to have same powers as at Nisi Prius.*
39. *Bill of exceptions, special verdict, and special case.*
40. *Court may direct issues to try any fact.*
41. *Affidavit in support of a petition.*
42. *Service of petition.*

43. *Examination of petitioner.*
44. *Adjournment.*
45. *Court may order settlement of property for benefit of innocent party and children of marriage.*
46. *Mode of taking evidence.*
47. *Court may issue commissions or give orders for examination of witnesses abroad or unable to attend.*
48. *Rules of evidence in common-law courts to be observed.*
49. *Attendance of witnesses on the court.*
50. *Penalties for false evidence.*
51. *Costs.*
52. *Enforcement of orders and decrees.*
53. *Power to make rules, &c. for procedure, and to alter them from time to time.*
54. *Fees to be regulated.*
55. *Appeal from the judge ordinary to the full court.*
56. *Appeal to the House of Lords in case of petition for dissolution of a marriage.*
57. *Liberty to parties to marry again. No clergyman compelled to solemnise certain marriages.*
58. *If minister of any church, &c. refuses to perform marriage ceremony, any other minister may perform such service.*
59. *No action in England for criminal conversation.*
60. *All fees, except as herein provided, to be collected by stamps.*
61. *Provisions concerning stamps for the Court of Probate to be applicable to the purposes of this act.*
62. *Expenses of the court to be paid out of monies to be provided by Parliament.*
63. *Stamp duty on admission of proctors, and annual certificates.*
64. *Compensation to proctors.*
65. *As to salary of judge of Court of Probate, if appointed judge of Court of Divorce, &c.*
66. *Power to Secretary of State to order all letters-patent, records, &c. to be transmitted from all ecclesiastical courts. Penalty on disobeying such order.*
67. *Rules, &c. to be laid before Parliament.*
68. *Yearly account of fees, &c. to be laid before Parliament.*

Whereas it is expedient to amend the law relating to divorce, and to constitute a court with exclusive jurisdiction in matters matrimonial in England, and with authority in certain cases to decree the dissolution of a marriage: be it therefore enacted &c. as follows:—

Sect. 1. This act shall come into operation on such day, not sooner than the 1st January, 1858, as her Majesty shall by Order in Council appoint, provided that such Order be made one month at least previously to the day so to be appointed.

2. As soon as this act shall come into operation, all jurisdiction now exerciseable by any ecclesiastical court in England in respect of divorces à mensâ et thoro, suits of nullity of marriage, suits of jactitation of marriage, suits for restitution of conjugal rights, and in all causes, suits, and matters matrimonial, shall cease to be so exerciseable, except so far as relates to the granting of marriage licenses, which may be granted as if this act had not been passed.

3. Any decree or order of any ecclesiastical court of competent jurisdiction which shall have been made before this act comes into operation, in any cause or matter matrimonial, may be enforced or otherwise dealt with by the Court for Divorce and Matrimonial Causes hereinafter mentioned, in the same way as if it had been originally made by the said court under this act.

4. All suits and proceedings in causes and matters matrimonial which at the time when this act comes into operation shall be pending in any ecclesiastical court in England shall be transferred to, dealt with, and decided by the said Court for Divorce and Matrimonial Causes, as if the same had been originally instituted in the said court.

5. Provided, that if at the time when this act comes into operation any cause or matter which would be transferred to the said Court for Divorce and Matrimonial Causes under the enactment hereinbefore contained shall have been heard before any judge having jurisdiction in relation to such cause or matter, and be then standing for judgment, such judge may, at any time within six weeks after the time when this act comes into operation, give in to one of the registrars attending the Court for Divorce and Matrimonial Causes a written judgment thereon, signed by him; and a decree or order, as the case may require, shall be drawn up in pursuance of such judgment, and every such decree or order shall have the same force and effect as if it had been drawn up in pursuance of a judgment of the Court for Divorce and Matrimonial Causes on the day on which the same was delivered to the registrar, and shall be subject to appeal under this act.

6. As soon as this act shall come into operation, all jurisdiction now vested in or exerciseable by any ecclesiastical court or person in England in respect of divorces à mensâ et thoro, suits of nullity of marriage, suits for restitution of conjugal rights, or jactitation of marriage, and in all causes, suits, and matters matrimonial, except in respect of marriage licenses, shall belong to and be vested in her Majesty, and such jurisdiction, together with the jurisdiction conferred by this act, shall be exercised in the name of her Majesty in a court of record to be called "the Court for Divorce and Matrimonial Causes."

7. No decree shall hereafter be made for a divorce à mensâ et thoro, but in all cases in which a decree for a divorce à mensâ et thoro might now be pronounced, the court may pronounce a decree for a judicial separation, which shall have the same force and the same consequences as a divorce à mensâ et thoro now has.

8. The Lord Chancellor, the Lord Chief Justice of the Court of Queen's Bench, the Lord Chief Justice of the Court of Common Pleas, the Lord Chief Baron of the Court of Exchequer, the senior puisne judge for the time being in each of the three last-mentioned courts, and the judge of her Majesty's Court of Probate constituted by any act of the present session, shall be the judges of the said court.

9. The judge of the Court of Probate shall be called the Judge Ordinary of the said court, and shall have full authority, either alone or with one or more of the other judges of the said court, to hear and determine all matters arising therein, except petitions for the dissolving of or annulling marriage, and applications for new trials of questions or issues before a jury, bills of exception, special verdicts, and special cases, and, except as aforesaid, may exercise all the powers and authority of the said court.

10. All petitions, either for the dissolution or for a sentence of nullity of marriage, and applications for new trials of questions or issues before a jury, shall be heard and determined by three or more judges of the said court, of whom the judge of the Court of Probate shall be one.

11. During the temporary absence of the Judge Ordinary, the Lord Chancellor may by writing under his hand authorise the Master of the Rolls, the Judge of the Admiralty Court, or either of the Lords Justices, or any Vice-Chancellor, or any judge of the superior courts of law at Westminster, to act as Judge Ordinary of the said Court for Divorce and Matrimonial Causes, and the Master of the Rolls, the Judge of the Admiralty Court, Lord Justice, Vice-Chancellor, or judge of the superior courts shall, when so acting, have and exercise all the jurisdiction, power, and authority which might have been exercised by the Judge Ordinary.

12. The Court for Divorce and Matrimonial Causes shall hold its sittings at such place or places in London or Middlesex or elsewhere as her Majesty in Council shall from time to time appoint.

13. The Lord Chancellor shall direct a seal to be made for the said court, and may direct the same to be broken, altered, and renewed, at his discretion; and all decrees and orders, or copies of decrees or orders, of the said court, sealed with the said seal, shall be received in evidence.

14. The registrars and other officers of the principal registry of the Court of Probate shall attend the sittings of the Court for Divorce and Matrimonial Causes, and assist in the proceedings thereof, as shall be directed by the rules and orders under this act.

15. All persons admitted to practise as advocates or proctors respectively in any ecclesiastical court in England, and all barristers, attornies, and solicitors entitled to practise in the superior courts at Westminster, shall be entitled to practise in the Court for Divorce and Matrimonial Causes; and such advocates and barristers shall have the same relative rank and precedence which they now have in the Judicial Committee of the Privy Council, unless and until her Majesty shall otherwise order.

16. A sentence of judicial separation (which shall have the effect of a divorce à mensâ et thoro under the existing law, and such other legal effect as herein mentioned) may be obtained, either by the husband or the wife, on the ground of adultery, or cruelty, or desertion without cause for two years and upwards.

17. Application for restitution of conjugal rights, or for judicial separation, on any one of the grounds aforesaid, may be made by either husband or wife, by petition to the court, or to any judge of assize at the assizes held for the county in which the husband and wife reside or last resided together, and which judge of assize is hereby authorised and required to hear and determine such petition, according to the rules and regulations which shall be made under the authority of this act; and the court or judge to which such petition is addressed, on being satisfied of the truth of the allegations therein contained, and that there is no legal ground why the same should not be granted, may decree such restitution of conjugal rights or judicial separation accordingly, and, where the application is by the wife, may make any order for alimony which shall be deemed just: provided always, that any judge of assize to whom such petition shall be presented may refer the same to any of her Majesty's counsel or serjeant-at-law named in the commission of assise or nisi prius, and such counsel or serjeant shall, for the purpose of deciding upon the matters of such petition, have all the powers that any such judge would have had by virtue of this act or otherwise.

18. For the purpose of hearing and deciding all applications under the authority of this act, the judge of assize, or person nominated by him as aforesaid, shall be entitled to avail himself of the services of all officers, and use and exercise all powers and authorities, which the court of assize may employ, use, and exercise for the determination of causes and other matters now usually heard and decided by them respectively, and the said judge of assise or other person shall also for the purpose have and be entitled to exercise all the powers and authorities hereby given to the court for the hearing and deciding applications made to it, and also the powers hereby given to the court to make provision touching the custody, maintenance, and education of children; and every order made by any judge of assize or other person under the authority of this act may, on the application of the person obtaining the same, be entered as an order of the court, and when so entered shall have the same force and effect, and be enforced in the same manner, as if such order had been originally made by the court.

19. The court shall from time to time fix and regulate the fees which shall be payable upon all proceedings under any application to a judge of assize under this act; and such fees shall be received in money, for their own benefit, by the persons to whom or for whose use the same shall be directed to be paid.

20. Any order so entered as aforesaid may be reviewed, and either altered or reversed on appeal to the judge ordinary of the court, but such appeal shall not stay the intermediate execution of the order, unless the judge ordinary shall so direct, who shall have power, if such appeal be dismissed or abandoned, to order the appellant to pay to the other party the full costs incurred by reason of such appeal.

21. A wife deserted by her husband may at any time after such desertion, if resident within the metropolitan district, apply to a police magistrate, or if resident in the country to justices in petty sessions, or in either case to the court, for an order to protect any money or property she may acquire by her own lawful industry, and property which she may become possessed of, after such desertion, against her husband or his creditors, or any person claiming under him; and such magistrate or justices or court, if satisfied of the fact of such desertion, and that the same was without reasonable cause, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings and property acquired since the commencement of such desertion, from her husband and all creditors and persons claiming under him, and such earnings and property shall belong to the wife as if she were a feme sole: provided always, that every such order, if made by a police magistrate or justices at petty sessions, shall, within ten days after the making thereof, be entered with the registrar of the county court within whose jurisdiction the wife is resident; and that it shall be lawful for the husband, and any creditor or other person claiming under him, to apply to the court, or to the magistrate or justices by whom such order was made, for the discharge thereof: provided also, that if the husband, or any creditor of or person claiming under the husband, shall seize or continue to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife, (which she is hereby empowered to bring), to restore the specific property, and also for a sum equal to double the value of the property so seized or held after such notice as aforesaid: if any such order of protection be made, the wife shall, during the continuance thereof, be and be deemed to have been, during such desertion of her, in the like position in all respects, with regard to property and contracts and suing and being sued, as she would be under this act if she obtained a decree of judicial separation.

22. In all suits and proceedings, other than proceedings to dissolve any marriage, the said court shall proceed and act and give relief on principles and rules which in the opinion of the said court shall be as nearly as may be conformable to the principles and rules on which the ecclesiastical courts have heretofore acted and given relief, but subject to the provisions herein contained, and to the rules and orders under this act.

23. Any husband or wife, upon the application of whose wife or husband, as the case may be, a decree of judicial separation has been pronounced, may, at any time thereafter, present a petition to the court praying for a reversal of such decree on the ground that it was obtained in his or her absence, and that there was reasonable ground for the alleged desertion, where desertion was the ground of such decree; and the court may, on being satisfied of the truth of the allegations of such petition, reverse the decree accordingly, but the reversal thereof shall not prejudice or affect the rights or remedies which any other person would have had in case such reversal had not been decreed, in respect of any debts, contracts, or acts of the wife incurred, entered into, or done between the times of the sentence of separation and of the reversal thereof.

24. In all cases in which the court shall make any decree or order for alimony it may direct the same to be paid either to the wife herself or to any trustee on her behalf, to be approved by the court, and may impose any terms or restrictions which to the court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the court expedient so to do.

25. In every case of a judicial separation the wife shall, from the date of the sentence, and whilst the separation shall continue, be considered as a feme sole with respect to property of every description which she may acquire, or which may come to or devolve upon her; and such property may be disposed of by her in all respects as a feme sole, and on her decease the same shall, in case she shall die intestate, go as the same would have gone if her husband had been then dead: provided, that if any such wife should again cohabit with her husband, all such property as she may be entitled to when such cohabitation shall take place shall be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

26. In every case of a judicial separation the wife shall, whilst so separated, be considered as a feme sole for the purposes of contract, and wrongs and injuries, and suing and being sued in any civil proceeding; and her husband shall not be liable in respect of any engagement or contract she may have entered into, or for any wrongful act or omission by her, or for any costs she may incur as plaintiff or defendant: provided, that where, upon any such judicial separation alimony has been decreed or ordered to be paid to the wife, and the same shall not be duly paid by the husband, he shall be liable for necessaries supplied for her use: provided also, that nothing shall prevent the wife from joining, at any time during such separation, in the exercise of any joint power given to herself and her husband.

27. It shall be lawful for any husband to present a petition to the said court praying that his marriage may be dissolved, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and it shall be lawful for any wife to present a petition to the said court praying that her marriage may be dissolved, on the ground that since the celebration thereof her husband has been guilty of incestuous adultery, or of bigamy with adultery, or of rape, or of sodomy or bestiality, or of adultery coupled with such cruelty as, without adultery, would have entitled her to a divorce à mensâ et thoro, or of adultery coupled with desertion, without reasonable excuse, for two years or upwards; and every such petition shall

state, as distinctly as the nature of the case permits, the facts on which the claim to have such marriage dissolved is founded: provided that, for the purposes of this act, incestuous adultery shall be taken to mean adultery committed by a husband with a woman with whom, if his wife were dead, he could not lawfully contract marriage, by reason of her being within the prohibited degrees of consanguinity or affinity; and bigamy shall be taken to mean marriage of any person, being married, to any other person during the life of the former husband or wife, whether the second marriage shall have taken place within the dominions of her Majesty or elsewhere.

28. Upon any such petition presented by a husband the petitioner shall make the alleged adulterer a co-respondent to the said petition, unless on special grounds, to be allowed by the court, he shall be excused from so doing; and on every petition presented by a wife for dissolution of marriage the court, if it see fit, may direct that the person with whom the husband is alleged to have committed adultery be made a respondent; and the parties or either of them may insist on having the contested matters of fact tried by a jury, as hereinafter mentioned.

29. Upon any such petition for the dissolution of a marriage it shall be the duty of the court to satisfy itself, so far as it reasonably can, not only as to the facts alleged, but also whether or no the petitioner has been in any manner accessory to or conniving at the adultery, or has condoned the same, and shall also inquire into any counter charge which may be made against the petitioner.

30. In case the court, on the evidence in relation to any such petition, shall not be satisfied that the alleged adultery has been committed, or shall find that the petitioner has during the marriage been accessory to or conniving at the adultery of the other party to the marriage, or has condoned the adultery complained of, or that the petition is presented or prosecuted in collusion with either of the respondents, then and in any of the said cases the court shall dismiss the said petition.

31. In case the court shall be satisfied on the evidence that the case of the petitioner has been proved, and shall not find that the petitioner has been in any manner accessory to or conniving at the adultery of the other party to the marriage, or has condoned the adultery complained of, or that the petition is presented or prosecuted in collusion with either of the respondents, then the court shall pronounce a decree declaring such marriage to be dissolved: provided always, that the court shall not be bound to pronounce such decree if it shall find that the petitioner has during the marriage been guilty of adultery, or if the petitioner shall, in the opinion of the court, have been guilty of unreasonable delay in presenting or prosecuting such petition, or of cruelty towards the other party to the marriage, or of having deserted or wilfully separated himself or herself from the other party before the adultery complained of, and without reasonable excuse, or of such wilful neglect or misconduct as has conduced to the adultery.

32. The court may, if it shall think fit, on any such decree, order that the husband shall, to the satisfaction of the court, secure to the wife such gross sum of money, or such annual sum of money, for any term not exceeding her own life, as, having regard to her fortune, if any, to the ability of the husband, and to the conduct of the parties, it shall deem reasonable; and for that purpose may refer it to any one of the conveyancing counsel of the Court of Chancery to settle and approve of a proper deed or instrument to be executed by all necessary parties; and the said court may in such case, if it shall see fit, suspend the pronouncing of its decree until such deed shall have been duly executed; and upon any petition for dissolution of marriage the court shall have the same power to make interim orders for payment of money, by way of alimony or otherwise, to the wife, as it would have in a suit instituted for judicial separation.

33. Any husband may, either in a petition for dissolution of marriage or for judicial separation, or in a petition limited to such object only, claim damages from any person on the ground of his having committed adultery with the wife of such petitioner, and such petition shall be served on the alleged adulterer and the wife, unless the court shall dispense with such service, or direct some other service to be substituted; and the claim made by every such petition shall be heard and tried on the same principles, in the same manner, and subject to the same or the like rules and regulations as actions for criminal conversation are now tried and decided in courts of common law; and all the enactments herein contained with reference to the hearing and decision of petitions to the court shall, so far as may be necessary, be deemed applicable to the hearing and decision of petitions presented under this enactment; and the damages to be recovered on any such petition shall in all cases be ascertained by the verdict of a jury, although the respondents, or either of them, may not appear; and after the verdict has been given the court shall have power to direct in what manner such damages shall be paid or applied, and to direct that the whole or any part thereof shall be settled for the benefit of the children (if any) of the marriage, or as a provision for the maintenance of the wife.

34. Whenever in any petition presented by a husband the alleged adulterer shall have been made a co-respondent, and the adultery shall have been established, it shall be lawful for the court to order the adulterer to pay the whole or any part of the costs of the proceedings.

35. In any suit or other proceeding for obtaining a judicial separation or a decree of nullity of marriage, and on any petition for dissolving a marriage, the court may from time to time, before making its final decree, make such interim orders, and may make such provision in the final decree, as it may deem just and proper, with respect to the custody, maintenance, and education of the children the marriage of whose parents is the subject of such suit or other proceeding, and may, if it shall think fit, direct proper proceedings to be taken for placing such children under the protection of the Court of Chancery.

36. In questions of fact arising in proceedings under this act it shall be lawful for, but, except as hereinbefore provided, not obligatory upon, the court to direct the truth thereof to be determined before itself, or before any one or more of the judges of the said court, by the verdict of a special or common jury.

37. The court, or any judge thereof, may make all such rules and orders upon the sheriff or any other person for procuring the attendance of a special or common jury for the trial of such question as may now be made by any of the superior courts of common law at Westminster, and may also make any other orders which to such court or judge may seem requisite; and every such jury shall consist of persons possessing the like qualifications, and shall be struck, summoned, balloted for, and called in like manner, as if such jury were a jury for the trial of any cause in any of the said superior courts; and every juryman so summoned shall be entitled to the same rights, and subject to the same duties and liabilities, as if he had been duly summoned for the trial of any such cause in any of the said superior courts; and every party to any such proceeding shall be entitled to the same rights as to challenge and otherwise as if he were a party to any such cause.

38. When any such question shall be so ordered to be tried such question shall be reduced into writing in such form as the court shall direct, and at the trial the jury shall be sworn to try the said question, and a true verdict to give thereon according to the evidence; and upon every such trial the court or judge shall have the same powers, jurisdiction, and authority as any judge of any of the said superior courts sitting at nisi prius.

39. Upon the trial of any such question or of any issue under this act a bill of exceptions may be tendered, and a general or special verdict or verdicts, subject to a special case, may be returned, in like manner as in any cause tried in any of the said superior courts; and every such bill of exceptions, special verdict, and special case respectively shall be stated, settled, and sealed in like manner as in any cause tried in any of the said superior courts, and where the trial shall not have been had in the Court for Divorce and Matrimonial Causes shall be returned into such court without any writ of error or other writ; and the matter of law in every such bill of exceptions, special verdict, and special case shall be heard and determined by the full courts, subject to such right of appeal as is hereinafter given in other cases.

40. It shall be lawful for the court to direct one or more issue or issues to be tried in any court of common law, and either before a judge of assize in any county or at the sittings for the trial of causes in London or Middlesex, and either by a special or common jury, in like manner as is now done by the Court of Chancery.

41. Every person seeking a decree of nullity of marriage, or a decree of judicial separation, or a dissolution of marriage, or decree in a suit of jactitation of marriage, shall, together with

the petition or other application for the same, file an affidavit verifying the same so far as he or she is able to do so, and stating that there is not any collusion or connivance between the deponent and the other party to the marriage.

42. Every such petition shall be served on the party to be affected thereby, either within or without her Majesty's dominions, in such manner as the court shall by any general or special order from time to time direct, and for that purpose the court shall have all the powers conferred by any statute on the Court of Chancery: provided always, that the said court may dispense with such service altogether in case it shall seem necessary or expedient so to do.

43. The court may, if it shall think fit, order the attendance of the petitioner, and may examine him or her, or permit him or her to be examined or cross-examined on oath on the hearing of any petition, but no such petitioner shall be bound to answer any question tending to shew that he or she has been guilty of adultery.

44. The court may from time to time adjourn the hearing of any such petition, and may require further evidence thereon, if it shall see fit so to do.

45. In any case in which the court shall pronounce a sentence of divorce or judicial separation for adultery of the wife, if it shall be made appear to the court that the wife is entitled to any property either in possession or reversion, it shall be lawful for the court, if it shall think proper, to order such settlement as it shall think reasonable to be made of such property or any part thereof, for the benefit of the innocent party, and of the children of the marriage, or either or any of them.

46. Subject to such rules and regulations as may be established as herein provided, the witnesses in all proceedings before the court where their attendance can be had shall be sworn and examined orally in open court: provided that parties, except as hereinbefore provided, shall be at liberty to verify their respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party or by direction of the court, be subject to be cross-examined by or on behalf of the opposite party orally in open court, and after such cross-examination may be re-examined orally in open court as aforesaid by or on behalf of the party by whom such affidavit was filed.

47. Provided, that where a witness is out of the jurisdiction of the court, or where, by reason of his illness or from other circumstances, the court shall not think fit to enforce the attendance of the witness in open court, it shall be lawful for the court to order a commission to issue for the examination of such witness on oath, upon interrogatories or otherwise, or if the witness be within the jurisdiction of the court to order the examination of such witness on oath, upon interrogatories or otherwise, before any officer of the said court or other person to be named in such order for the purpose; and all the powers given to the courts of law at Westminster by the acts of the 13 Geo. 3, c. 63, and of the 1 Will. 4, c. 22, for enabling the courts of law at Westminster to issue commissions and give orders for the examination of witnesses in actions depending in such courts, and to enforce such examination, and all the provisions of the said acts, and of any other acts for enforcing or otherwise applicable to such examination and the witnesses examined, shall extend and be applicable to the court and to the examination of witnesses under the commissions and orders of the said court, and to the witnesses examined, as if such court were one of the courts of law at Westminster, and the matter before it were an action pending in such court.

48. The rules of evidence observed in the superior courts of common law at Westminster shall be applicable to and observed in the trial of all questions of fact in the court.

49. The court may, under its seal, issue writs of subpoena or subpoena duces tecum, commanding the attendance of witnesses at such time and place as shall be therein expressed; and such writs may be served in any part of Great Britain or Ireland; and every person served with such writ shall be bound to attend, and to be sworn and give evidence in obedience thereto, in the same manner as if it had been a writ of subpœna or subpoena duces tecum issued from any of the said superior courts of common law in a cause pending therein, and served in Great Britain or Ireland, as the case may be: provided that any petitioner required to be examined, or any person called as a witness, or required or desiring to make an affidavit or deposition under or for the purposes of this act, shall be permitted to make his solemn affirmation or declaration instead of being sworn in the circumstances and manner in which a person called as a witness, or desiring to make an affidavit or deposition, would be permitted so to do under the Common-law Procedure Act, 1854, in cases within the provisions of that act.

50. All persons wilfully deposing or affirming falsely in any proceeding before the court shall be deemed to be guilty of perjury, and shall be liable to all the pains and penalties attached thereto.

51. The court on the hearing of any suit, proceeding, or petition under this act, and the House of Lords on the hearing of any appeal under this act, may make such order as to costs as to such court or house respectively may seem just: provided always, that there shall be no appeal on the subject of costs only.

52. All decrees and orders to be made by the court in any suit, proceeding, or petition to be instituted under authority of this act shall be enforced and put in execution in the same or the like manner as the judgments, orders, and decrees of the High Court of Chancery may be now enforced and put in execution.

53. The court shall make such rules and regulations concerning the practice and procedure under this act as it may from time to time consider expedient, and shall have full power from time to time to revoke or alter the same.

54. The court shall have full power to fix and regulate from time to time the fees payable upon all proceedings before it, all which fees shall be received, paid, and applied as herein directed: provided always, that the said court may make such rules and regulations as it may deem necessary and expedient for enabling persons to sue in the said court in formâ pauperis.

55. Either party dissatisfied with any decision of the court in any matter which, according to the provisions aforesaid, may be made by the judge ordinary alone, may, within three calendar months after the pronouncing thereof, appeal therefrom to the full court, whose decision shall be final.

56. Either party dissatisfied with the decision of the full court on any petition for the dissolution of a marriage may, within three months after the pronouncing thereof, appeal therefrom to the House of Lords if Parliament be then sitting, or if Parliament be not sitting at the end of such three months, then within fourteen days next after its meeting; and on the hearing of any such appeal the House of Lords may either dismiss the appeal or reverse the decree, or remit the case to the court, to be dealt with in all respects as the House of Lords shall direct.

57. When the time hereby limited for appealing against any decree dissolving a marriage shall have expired, and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal any marriage shall be declared to be dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been dissolved by death: provided always, that no clergyman in holy orders of the United Church of England and Ireland shall be compelled to solemnise the marriage of any person whose former marriage may have been dissolved on the ground of his or her adultery, or shall be liable to any suit, penalty, or censure for solemnising or refusing to solemnise the marriage of any such person.

58. Provided always, that when any minister of any church or chapel of the United Church of England and Ireland shall refuse to perform such marriage service between any persons who but for such refusal would be entitled to have the same service performed in such church or chapel, such minister shall permit any other minister in holy orders of the said United Church, entitled to officiate within the diocese in which such church or chapel is situate, to perform such marriage service in such church or chapel.

59. After this act shall have come into operation no action shall be maintainable in England for criminal conversation.

60. None of the fees payable under this act, except as herein expressly provided, shall be received in money, but every such fee shall be collected and received by a stamp denoting the amount of the fee which would otherwise be payable; and the fees to be so collected by stamps shall be "stamp duties," and be under the management of the Commissioners of Inland Revenue.

61. The provisions contained in or referred to by an act of the present session of Parliament, "to amend the Laws relating to Probates and Letters of Administration in England," and applicable to the collection and payment and accounts of the

fees to be received thereunder by means of stamps, and to such stamps, and the vellum, parchment, or paper on or to which the same shall be impressed or affixed, and in relation to documents which ought to have stamps impressed thereon or affixed thereto, and to the punishment of persons for such wrongful acts as therein mentioned in relation to stamps, or fees or sums of money which ought to be collected by means of stamps, shall be applicable to and for the purposes of this act, as if such provisions as aforesaid had been contained or referred to in this act with reference to the like matters, and the court under this act had been mentioned, instead of the Court of Probate, or the judge thereof, as the case may be.

62. It shall be lawful for the Commissioners of her Majesty's Treasury, out of such monies as may be provided and appropriated by Parliament for the purpose, to cause to be paid all necessary expenses of the court under this act, and other expenses which may be incurred in carrying the provisions of this act into effect, except as herein otherwise provided.

63. The same amount of stamp duty as is now payable on the admission of a proctor to any ecclesiastical court shall be payable by every person to be admitted as a proctor in the Court of Divorce and Matrimonial Causes, or in the Court of Probate, who shall not have been previously admitted as a proctor in the other of such courts, or in an Ecclesiastical or Admiralty Court, and have paid the stamp duty in respect thereof; and every person who shall practise as a proctor or as a solicitor or attorney in the said Court of Divorce and Matrimonial Causes, or the said Court of Probate, shall obtain an annual certificate to authorise him so to do, under the Stamp Duty Acts, in the same manner as proctors practising in the Ecclesiastical or Admiralty Courts, and solicitors and attornies practising in her Majesty's courts at Westminster, are now required to do by the said acts or any of them, and shall be subject and liable to the same penalties and disabilities in case of any neglect to obtain such certificates as such proctors, attornies, and solicitors are now subject and liable to for any similar neglect, and as if the clauses and provisions of the said acts in relation to such certificates had been inserted in this act, and specially enacted in reference to proctors, solicitors, and attornies practising in the said Court of Divorce and Matrimonial Causes and Court of Probate, provided that one annual certificate only shall be required for any one person, although he may practise in more than one of the capacities aforesaid, or in several of the courts hereinbefore mentioned.

64. Every person who at the time of the passing of this act has been duly admitted and is practising as a proctor in any ecclesiastical court in England shall, at the expiration of two years from and after the commencement of this act, be entitled to make a claim for compensation to the Commissioners of her Majesty's Treasury; and the said commissioners, by examination of evidence on oath, (which they are hereby empowered to administer), or otherwise, as they shall think fit, shall inquire into and ascertain the loss, if any, of professional gains and profits in respect of suits relating to marriage and divorce sustained by such proctors respectively, upon a comparison in each case of the average clear gains of the three years immediately before the commencement of this act, arising from such last-mentioned business, and the average of the same gains during the two years immediately succeeding the commencement of this act; and the said commissioners shall in each case, having regard to all the circumstances, award a reasonable compensation, by way of annuity, to the persons sustaining such loss, during their lives, but in no case shall such annuity exceed one-half of the annual loss so ascertained as aforesaid; and such annuities shall be paid out of monies to be annually provided by Parliament for that purpose, and the persons receiving the same shall be subject to the provisions contained in the 19th section of the act of the 4 & 5 Will. 4, c. 24.

65. In case the judge of the Court of Probate established by any act passed during the present session, shall be appointed judge ordinary of the Court for Divorce and Matrimonial Causes, the salary of such judge shall be the sum of 5000*l.* per annum; but such judge, if afterwards appointed judge of the Admiralty Court, shall not be entitled to any increase of salary.

66. Any one of her Majesty's Principal Secretaries of State may order every judge, registrar, or other officer of any ecclesiastical court in England or the Isle of Man, or any other person having the public custody of or control over any letters-patent, records, deeds, processes, acts, proceedings, books, documents, or other instrument relating to marriages, or to suits for divorce, nullity of marriage, restitution of conjugal rights, or to any other matters or causes matrimonial, except marriage licenses, to transmit the same, at such times and in such manner, to such places in London or Westminster, and under such regulations, as the said Secretary of State may appoint; and if any judge, registrar, officer, or other person shall wilfully disobey such order, he shall for the first offence forfeit the sum of 100*l.*, to be recoverable by any registrar of the Court of Probate as a debt under this act in any of the superior courts at Westminster, and for the second and subsequent offences the judge ordinary may commit the person so offending to prison for any period not exceeding three calendar months, provided that the warrant of committal be countersigned by one of her Majesty's Principal Secretaries of State, and the said persons so offending shall forfeit all claim to compensation under this act.

67. All rules and regulations concerning practice or procedure, or fixing or regulating fees, which may be made by the court under this act, shall be laid before both Houses of Parliament within one month after the making thereof, if Parliament be then sitting, or if Parliament be not then sitting, within one month after the commencement of the then next session of Parliament.

68. The judge ordinary of the Court for Divorce and Matrimonial Causes for the time being shall cause to be prepared in each year ending the 31st December a return of all fees and monies levied in such year on account of the fee fund of the Court of Divorce and Matrimonial Causes, and of any other fund under the authority of this act; also, a return of the annual salaries of the said judge ordinary, and of all persons holding offices in the said court, with all the incidental expenses of the said court, whether the salaries and incidental expenses aforesaid be defrayed out of fees or out of any other monies; also, a return of all superannuations, pensions, annuities, retiring allowances, and compensations made payable under this act, in each year, stating the gross amount, and the amount in detail, of such charges: provided always, that all such returns as aforesaid shall be presented to both Houses of Parliament on or before the 31st March in each year, if Parliament is then sitting, and if Parliament is not sitting, then such returns shall be presented within one month of the first meeting of Parliament after the 31st March in each year.

LOCAL AND PERSONAL ACTS,

DECLARED PUBLIC, AND TO BE JUDICIALLY NOTICED.

20 & 21 VICTORIÆ.—SESSION 1857.

CAP. i.

An Act to enable the Great Southern and Western Railway Company to raise a further Sum of Money.

CAP. ii.

An Act to incorporate a Company for supplying Gas to Chepstow and the Neighbourhood.

CAP. iii.

An Act for granting further Powers to "The Reversionary Interest Society."

CAP. iv.

An Act to incorporate the Proprietors of the Guildford Waterworks; and to confer further Powers for the Supply of Water to the Borough of Guildford.

CAP. v.

An Act to amend the Inverness and Nairn Railway Act, 1854; to enable the Inverness and Nairn Railway Company to create a Preference Stock, and to raise further Sums of Money; and for other Purposes.

CAP. vi.

An Act for lighting with Gas the Borough of South Shields and Neighbourhood thereof, in the County of Durham.

CAP. vii.

An Act for more effectually supplying with Gas the Town and Borough of Sunderland and the Neighbourhood thereof, in the County of Durham.

CAP. viii.

An Act for enabling the South Devon Railway Company to raise additional Capital; and for other Purposes.

CAP. ix.

An Act for the Regulation of certain Public Sufferance Wharves in the Port of London, known as "Meriton's Sufferance Wharf" and "Hagen's Sufferance Wharf."

CAP. x.

An Act for regulating the Capital of the Bedale and Leyburn Railway Company; and for other Purposes.

CAP. xi.

An Act to make further Provision for supplying with Water the City of Chester and Suburbs thereof.

CAP. xii.

An Act to incorporate the Guildford Gas-light and Coke Company, and to confer upon them further Powers for the Supply of Gas to Guildford and the Vicinity.

CAP. xiii.

An Act to enable the Great Western and Brentford Railway Company to raise additional Capital; and for other Purposes.

CAP. xiv.

An Act to enable the Peebles Railway Company to create additional Shares in their Undertaking; and for other Purposes.

CAP. xv.

An Act for incorporating the Willenhall Gas Company; and for other Purposes.

CAP. xvi.

An Act to authorise the St. Helen's Canal and Railway Company to increase and regulate their Capital; and for other Purposes relating to the Company.

CAP. xvii.

An Act to alter the borrowing Powers of the Tralee and Killarney Railway Company.

CAP. xviii.

An Act for enabling the Portsmouth Railway Company to execute certain Works in connexion with their Railway; and for other Purposes.

CAP. xix.

An Act to enable the North-eastern Railway Company to cancel unissued and forfeited Shares, to create new Shares in lieu thereof, and raise authorised Capital; and for other Purposes.

CAP. xx.

An Act for supplying the Burgh of Dumbarton and Places adjacent with Water, for embanking and reclaiming the Broad Meadow there, and for extending the Municipal Boundaries of the said Burgh.

CAP. xxi.

An Act to amend an Act made and passed in the fifth Year of the Reign of his late Majesty King George the Fourth, intituled "An Act to repeal the several Acts for the Relief and Employment of the Poor of the Parish of St. Mary, Islington, in the County of Middlesex; for lighting and watching and preventing Nuisances and Annoyances therein; for amending the Road from Highgate through Maiden-lane, and several other Roads in the said Parish; and for providing a Chapel of Ease and an additional Burial-ground for the same, and to make more effectual Provisions in lieu thereof;" and for other Purposes.

CAP. xxii.

An Act to grant further Powers to the Brighton, Hove, and Preston Constant Service Waterworks Company, and to amend the Act relating to the Company.

CAP. xxiii.

An Act for conferring upon the Calcutta and South-eastern Railway Company certain Powers.

CAP. xxiv.

An Act to extend the Time for the compulsory Purchase of Lands for Parts of the Exeter and Exmouth Railway.

CAP. xxv.

An Act for more effectually empowering the United General Gas-light Company to light the City of Cork and the Suburbs thereof with Gas.

CAP. xxvi.

An Act to establish Markets and Fairs in the Parish of Kidsgrove in the County of Stafford.

CAP. xxvii.

An Act to amend and extend the Provisions of the Waterford and Tramore Railway Act, 1851, to revive and extend their Powers and increase their Capital; and for other Purposes.

CAP. xxviii.

An Act for constructing and maintaining a Pier at Great Yarmouth in the County of Norfolk, to be called "The Great Yarmouth Britannia Pier."

CAP. xxix.

An Act to confirm the Incorporation of the Undertaking of the Dublin and Bray Railway Company with that of the Dublin and Wicklow Railway Company, to dissolve the former Company, and to extend the Railway in the City of Dublin.

CAP. xxx.

An Act for regulating the Markets and Fairs in Bridgwater; and for other Purposes.

CAP. xxxi.

An Act for continuing the Term and amending and extending the Provisions of the Act relating to the Wilmslow and Lawton Turnpike Road, in the County of Chester.

CAP. xxxii.

An Act to enable the Fraserburgh Harbour Commissioners to purchase Lands and to borrow a further Sum of Money.

CAP. xxxiii.

An Act for amalgamating the Hartlepool Dock and Railway Company with the North-eastern Railway Company, and for vesting the Undertaking of the former Company in that of the latter; and for other Purposes.

CAP. xxxiv.

An Act to cancel certain forfeited Shares in the Forth and Clyde Junction Railway Company, and to enable the Company to create new and additional Shares; and for other Purposes.

CAP. xxxv.

An Act for enabling the Glasgow Gas-light Company to raise a further Sum of Money; and for other Purposes.

CAP. xxxvi.

An Act for uniting the Offices of Minister and Chaplain of St. Philip's Church, in Liverpool.

CAP. xxxvii.

An Act for the Improvement of Landport and Southsea, and the Neighbourhoods, in the Parishes of Portsmouth and Portsea, in the County of Southampton.

CAP. xxxviii.

An Act to enable the Mayor, Aldermen, and Burgesses of the Borough of Cardigan to provide a Market House, and establish and regulate Markets and Fairs; and to regulate the Supply of Water within the Borough; and to pave, light, cleanse, regulate, and improve the Borough; and for other Purposes.

CAP. xxxix.

An Act to repeal the Provisions of the Acts relating to the Bridge and Ferries across the River Wear, in the Borough of Sunderland, and to grant further Powers for the Maintenance and Improvement of such Bridge and Ferries, and the Approaches and Landing Places connected therewith, or for the Erection of a new Bridge in lieu of the existing Bridge across such River.

CAP. xl.

An Act for making a Railway commencing by a Junction with the Haggarleazes Branch of the Stockton and Darlington Railway, near the Lands Colliery in the County of Durham, and terminating by a Junction with the Lancaster and Carlisle Railway at or near Tebay, in the County of Westmorland; and for making Arrangements with the Stockton and Darlington Railway Company; and for other Purposes.

CAP. xli.

An Act for making a Railway from the Llantrissant Station of the South Wales Railway to Penrhiwfer, in the Parish of Llantrissant, in the County of Glamorgan, with Branches to Glanmychydd and Mynydd Gellyrhaidd, both in the said Parish of Llantrissant.

CAP. xlii.

An Act to enable the New River Company to raise a further Sum of Money, to construct other Sewers at Hertford, and to amend the Acts relating to the Company.

CAP. xliii.

An Act to authorise the West Hartlepool Harbour and Railway Company to convert Loans into Debenture Stock, to raise further Capital, to arrange with Holders of Shares or Stock for Conversion thereof into other Shares or Stock; and for other Purposes.

CAP. xliv.

An Act for the Mansfield and Worksop Turnpike Road, in the County of Nottingham.

CAP. xlv.

An Act for better supplying with Water the Inhabitants of the Borough of Portsmouth, in the County of Southampton.

CAP. xlvi.

An Act to enable the North-eastern Railway Company to make a Branch from their Bishop Auckland Branch Railway to the Conside Ironworks, to acquire additional Lands; and for other Purposes.

CAP. xlvii.

An Act for better supplying with Water the Town of Ipswich.

CAP. xlviii.

An Act for making a Bridge over the River Wye, near to the Even Pitt Ferry, and Approaches thereto; for discontinuing and regulating Ferries near to the Bridge; and for other Purposes.

CAP. xlix.

An Act for making a Railway from the Deeside Railway at Banchory to Charleston of Aboyne.

CAP. l.

An Act to incorporate a Company for extending the Banff, Macduff, and Turriff Junction Railway from Turriff to Banff and Macduff.

CAP. li.

An Act to extend the Time for making the Cork and Youghal Railway, and to vary the borrowing Powers of the Company.

CAP. lii.

An Act to unite and amalgamate the Stockton New Gas Company and the Stockton Gas Consumers Company (Limited); and to authorise the united Company to raise additional Capital, and to sell their Undertaking to the Mayor, Aldermen, and Burgesses of the Borough of Stockton; and for other Purposes.

CAP. liii.

An Act for making a Railway from the Grange Station of the Great North of Scotland Railway to the Harbour of Banff, with a Branch to the Harbour of Portsoy.

CAP. liv.

An Act for making Railways between the City of Bristol and the South Wales Railway, in the County of Monmouth, with a Steam Ferry across the River Severn in connexion therewith, for the Purpose of improving the Railway Communication between South Wales and Bristol, Southampton, and the South-western Districts of England.

CAP. lv.

An Act to repeal the Act relating to the Newcastle-under-Lyme and Leek Turnpike Roads, and to make other Provisions in lieu thereof.

CAP. lvi.

An Act to repeal an Act passed in the Fifth Year of the Reign of his Majesty King George the Fourth, intituled "An Act for more effectually repairing and improving certain Roads leading to, through, and from the Towns of Langport, Somerton, and Castle Cary, in the County of Somerset, and for making and improving other Roads in the said County," and granting more effectual Powers in lieu thereof, and for making and improving new Lines of Road.

CAP. lvii.

An Act for authorising the Lowestoft Water, Gas, and Market Company to make additional Waterworks and raise additional Capital, and to lease their Undertaking; and for other Purposes.

CAP. lviii.

An Act for lighting with Gas the Borough of Shrewsbury and the Neighbourhood thereof, in the County of Salop.

CAP. lix.

An Act for incorporating the Burslem and Tunstall Gas-light Company and extending their Powers, and for authorising additional Works, and the raising of further Monies; and for other Purposes.

CAP. lx.

An Act for making a Railway from Lewes to Uckfield, all in the County of Sussex.

CAP. lxi.

An Act to authorise the Newry, Warrenpoint, and Rostrevor Railway Company to extend their Railway at Newry and at Warrenpoint, and to enter into Arrangements with the Newry and Enniskillen Railway Company.

CAP. lxii.

An Act to dissolve the Mallow and Fermoy Railway Company, and to transfer all the Powers of that Company for making and maintaining the Mallow and Fermoy Railway to the Great Southern and Western Railway Company.

CAP. lxiii.

An Act for lighting with Gas the Town of Bury, and other Townships and Places in the Parish of Bury, in the County of Lancaster.

CAP. lxiv.

An Act to extend the Time for the Completion of the Cannock Mineral Railway.

CAP. lxv.

An Act to repeal the Acts relating to the Selby and Market Weighton Turnpike Road in the East Riding of the County of York; and to make other Provisions in lieu thereof.

CAP. lxvi.

An Act for authorising the West Somerset Mineral Railway Company to make the Minehead Extension and the Cleeve Branch; and for other Purposes.

CAP. lxvii.

An Act to incorporate the Stratford-upon-Avon Gas Company.

CAP. lxviii.

An Act for granting additional Powers to the Australian Agricultural Company.

CAP. lxix.

An Act for enabling the Penarth Harbour, Dock, and Railway Company (heretofore called "The Ely Tidal Harbour and Railway Company") to construct Railways to, and a Dock and other Works on, or adjoining the South-west Bank of the River Ely; and for other Purposes.

CAP. lxx.

An Act for better supplying with Water the Inhabitants of the Parishes of Saint John the Baptist (including Margate) and Saint Peter the Apostle (including Broadstairs) in the County of Kent.

CAP. lxxi.

An Act to amend and enlarge the Provisions of the Acts relating to the River Tyne, and to enable the Tyne Improvement Commissioners to construct Docks at Coble Dean, and certain Works for the Improvement of such River; and for other Purposes.

CAP. lxxii.

An Act for making a Railway from the London and South-western Railway at Wimbledon to Epsom; and for other Purposes.

CAP. lxxiii.

An Act for regulating the Payment of Dividends on certain Classes of Preference Shares in the London Gas-light Company.

CAP. lxxiv.

An Act for the Improvement of the Town of Milford and the Neighbourhood thereof, for establishing Gasworks, Waterworks, and a Cemetery there; and for other Purposes.

CAP. lxxv.

An Act for more effectually making, repairing, and maintaining the Highways, Roads, and Bridges within the County of Orkney; and for other Purposes.

CAP. lxxvi.

An Act to amend the East Kent Railway (Extension to Dover) Act, 1855.

CAP. lxxvii.

An Act to enable the Midland Great Western Railway of Ireland Company to make an Extension Line of Railway to Sligo, with Branches therefrom; and for other Purposes.

CAP. lxxviii.

An Act to enable the Monkland Railways Company to make and maintain certain Railways in the Counties of Lanark and Linlithgow; and for other Purposes.

CAP. lxxix.

An Act to empower the Briton Ferry Floating Dock Company to raise Money; and for other Purposes connected with their Undertaking.

CAP. lxxx.

An Act for granting further Powers to the City and Suburban Gas Company of Glasgow.

CAP. lxxxi.

An Act to enable the Scottish Central Railway Company to make and maintain certain Extensions of their Denny Branch.

CAP. lxxxii.

An Act to empower the Stamford and Essendine Railway Company to raise Money; and for other Purposes connected therewith.

CAP. lxxxiii.

An Act for authorising the Victoria (London) Dock Company to make a new Cut eastward of their Dock, and to raise additional Capital; and for other Purposes.

CAP. lxxxiv.

An Act for making Railways from Athlone to Roscommon and Castlereagh, to be called "The Great Northern and Western (of Ireland) Railway;" and for other Purposes.

CAP. lxxxv.

An Act to enable the Great Southern and Western Railway Company to make a Railway from Tullamore to Athlone; and for other Purposes.

CAP. lxxxvi.

An Act for making a Railway from the Edinburgh, Perth, and Dundee Railway at Markinch Station to the Town of Leslie, with Branches to Auchmuty Mills, Leven Bank Mill, and Prinlaws Lower Mills; and other Purposes.

CAP. lxxxvii.

An Act for making a Railway from Keith to Dufftown.

CAP. lxxxviii.

An Act to repeal so much of the Act relating to the Road from Bawtry Bridge, in the County of Nottingham, to Hainton, in the County of Lincoln, and other Roads, as relates to the Second District of Roads therein mentioned; and to make other Provisions in lieu thereof.

CAP. lxxxix.

An Act to allow a Drawback on the Duties payable on Coals, Culm, Coke, and Cinders.

CAP. xc.

An Act for incorporating the European and Indian Junction Telegraph Company, and for other Purposes connected therewith.

CAP. xci.

An Act to enable the West of Fife Mineral Railway Company to construct a Branch Railway to Roscobie; and for certain other Purposes.

CAP. xcii.

An Act to continue or renew the Powers conferred on the Trustees on the River Clyde and Harbour of Glasgow to take Lands and execute Works for the Improvement of the Navigation; and for other Purposes.

CAP. xciii.

An Act to enable the British Fisheries Society to enlarge, improve, and maintain Pulteney Harbour, in the County of Caithness; and for other Purposes.

CAP. xciv.

An Act for improving and maintaining the Harbour of Elie, in the County of Fife.

CAP. xcv.

An Act for confirming the Title to Lands acquired for the Purposes of the Newquay Railway, Part of the Treffry Estates, in the County of Cornwall, and for regulating the Railway; and for other Purposes.

CAP. xcvi.

An Act to empower the Staines, Wokingham, and Woking Railway Company to make a Railway to connect the Reading, Guildford, and Reigate Railway with the Great Western Railway; and for other Purposes.

CAP. xcvii.

An Act to repeal the River Slaney Improvement Act, 1852, and to make better Provision for the Execution of the Objects of that Act; and for other Purposes connected with the River Slaney.

CAP. xcviii.

An Act to empower the Stockport, Disley, and Whaley Bridge Railway Company to extend their Railway to Buxton, and for other Purposes connected with their Undertaking.

CAP. xcix.

An Act for the Worksop and Attercliffe Turnpike Road, in the County of Nottingham and the West Riding of the County of York.

CAP. c.

An Act for the Abandonment of the Westminster Terminus Railway Extension, Clapham to Norwood; and for other Purposes.

CAP. ci.

An Act for making a Bridge across the River Backwater, near Weymouth, and a Turnpike Road, and other Works in connexion therewith, in the County of Dorset; and for other Purposes.

CAP. cii.

An Act to incorporate and regulate the Atlantic Telegraph Company, and to enable the Company to establish and work Telegraphs between Great Britain, Ireland, and Newfoundland; and for other Purposes.

CAP. ciii.

An Act for making a Railway from the Torquay Branch of the South Devon Railway to or near to Dartmouth, to be called "The Dartmouth and Torbay Railway;" and for other Purposes.

CAP. civ.

An Act to enable the Dundalk and Enniskillen Railway Company to make certain Deviations and Alterations in their Line and Works; and for other Purposes connected with their Undertaking.

CAP. cv.

An Act to authorise the East Somerset Railway Company to extend their Railway from Shepton Mallett to Wells.

CAP. cvi.

An Act for making a Railway from the Llanidloes and Newtown Railway, in the Parish of Llandinam, in the County of Montgomery, to the Town of Machynlleth, in the same County.

CAP. cvii.

An Act for repairing the Roads from Prestwich to Bury and Radcliffe, in the County Palatine of Lancaster, and for making and maintaining as Turnpike certain other Roads in connexion therewith, all in the same County; and for other Purposes.

CAP. cviii.

An Act for authorising the Conversion of Parts of the Shropshire Canal to Purposes of a Railway, and the making and maintaining of a Railway accordingly, and for authorising Arrangements between the London and North-western Railway Company and other Companies; and for other Purposes.

CAP. cix.

An Act for improving the North Level Drainage, and for other Purposes relating to the Level.

CAP. cx.

An Act for making a Railway from Broughton to Coniston, in the County Palatine of Lancaster; and for other Purposes.

CAP. cxi.

An Act for establishing and maintaining a Ferry and Floating Bridge across the River Waveney, near Burgh Saint Peter Staithe, in the Parishes of Oulton, in the County of Suffolk, and Burgh Saint Peter, in the County of Norfolk, with proper Works and Approach Roads thereto.

CAP. cxii.

An Act for making a Railway from the Essendine Station of the Great Northern Railway to Bourn, in the County of Lincoln; and for other Purposes.

CAP. cxiii.

An Act to enable the Midland Great Western Railway of Ireland Company to make a Railway from Streamstown to Clara; and for other Purposes.

CAP. cxiv.

An Act to amend and enlarge some of the Provisions of the Blyth and Tyne Railway Consolidation and Extensions Act, 1854; to authorise the Relinquishment of a Branch Railway authorised by that Act, and the Construction of other Railways and Works in connexion with the Blyth and Tyne Railway.

CAP. cxv.

An Act to enable the Metropolitan Board of Works to open certain new Streets in the City and Liberties of Westminster, and in the Borough of Southwark.

CAP. cxvi.

An Act for the making and maintaining of the Stratford-upon-Avon Railway; and for other Purposes.

CAP. cxvii.

An Act to make better Provision for the Burial of the Dead in the City of Manchester, and for enabling the Corporation to purchase certain Lands and effect certain Improvements in that City.

CAP. cxviii.

An Act to amend two several Acts passed respectively in the fifth Year of the Reign of his late Majesty King George the Fourth and the second Year of his late Majesty King William the Fourth, intituled respectively "An Act to repeal the several Acts for the Relief and Employment of the Poor of the Parish of St. Mary, Islington, in the County of Middlesex; for lighting and watching, and preventing Nuisances and Annoyances therein; for amending the Road from Highgate through Maiden-lane, and several other Roads in the said Parish; and for providing a Chapel of Ease and an additional Burial-ground for the same; and to make more effectual Provisions in lieu thereof;" and "An Act to equalise the Ecclesiastical Burthens of the Parish of St. Mary, Islington, in the County of Middlesex; for partially altering the Application of the Rents and Profits of the Stonefields Estate within the said Parish; for letting the Pews in the Parish Church of St. Mary, Islington, and the Chapel of Ease thereto; and for other Purposes connected therewith;" and to make other and more effectual Provisions in lieu thereof.

CAP. cxix.

An Act to enable the Newport, Abergavenny, and Hereford Railway Company to extend their Railway into the Aberdare and Bargoed Valleys in Glamorganshire, and for other Purposes connected with the Company.

CAP. cxx.

An Act to amend and enlarge the Powers of the Acts relating to the Portadown and Dungannon Railway Company, and to enable that Company to extend their Railway to the Town of Omagh, in the County of Tyrone, and to enter into certain Arrangements with the Ulster and other Railway Companies with respect to the working and leasing of the Railway; and for other Purposes.

CAP. cxxi.

An Act to enable the Salisbury and Yeovil Railway Company to make Deviations from the Line of their Railway, and for other Purposes connected with their Undertaking.

CAP. cxxii.

An Act to enable the Whitehaven and Furness Junction Railway Company to raise additional Capital; and for other Purposes.

CAP. cxxiii.

An Act to enable the Caledonian Railway Company to construct Branch Railways from their Line near Edinburgh to Granton; and for other Purposes.

CAP. cxxiv.

An Act for making a Railway from the Dunfermline Branch of the Edinburgh, Perth, and Dundee Railway to Kinross, with a Branch to Kingseat; and for other Purposes.

CAP. cxxv.

An Act to extend the Time for the Purchase of certain Lands required for the Metropolitan Railway; and for other Purposes.

CAP. cxxvi.

An Act to enable the South Staffordshire Waterworks Company to alter and extend their Works, and obtain an additional Supply of Water; and for other Purposes.

CAP. cxxvii.

An Act for incorporating the Victoria Gas Company, and for authorising them to acquire and enlarge the North Woolwich Gasworks, and to supply Gas; and for other Purposes.

CAP. cxxviii.

An Act for making a Railway from near Hamilton to near Strathaven, in the County of Lanark, to be called "The Hamilton and Strathaven Railway;" and for other Purposes.

CAP. cxxix.

An Act to enable the Fife and Kinross Railway Company to divert Part of their Main Line, and to make an Extension from Milnathort to Kinross.

CAP. cxxx.

An Act to enable the Great Yarmouth Waterworks Company to raise a further Sum of Money.

CAP. cxxxi.

An Act for continuing the Term and amending and extending the Provisions of the Act relating to the Otley and Skipton Turnpike Road, and to create a further Term therein; and for other Purposes.

CAP. cxxxii.

An Act to give further Powers to the Mayor, Aldermen, and Burgesses of the Borough of Salford with respect to Burial Purposes, and to authorise Arrangements with respect to Lands in and near Marlborough-square, in Salford.

CAP. cxxxiii.

An Act for making a Railway from the London, Brighton, and South-coast Railway at Horsham, through Billingshurst, to Pulborough, with a Branch from Pulborough to Coultershaw Mill, in the Parish of Petworth, all in the County of Sussex.

CAP. cxxxiv.

An Act authorising the North-western Railway Company to divert a Portion of their Railway, and to sell orgrant a Lease of their Undertaking to the Midland and Lancaster and Carlisle Railway Companies.

CAP. cxxxv.

An Act to amend an Act of the twenty-first Year of the Reign of King George the Third, "to prevent the Mischiefs that arise from driving Cattle within the Cities of London and Westminster, and Liberties thereof, and Bills of Mortality," and also to amend the Metropolitan Market Act, 1851.

CAP. cxxxvi.

An Act for authorising the London and South-western Railway Company and others to make Deviations from their authorised Lines of Railway and other Works; and for authorising divers other Matters affecting that Company and other Companies and Undertakings; and for other Purposes.

CAP. cxxxvii.

An Act for the Construction of Railways to supply direct Communication between Oldham, Ashton-under-Lyne, and Guide Bridge, and for the Accommodation of the Neighbourhood.

CAP. cxxxviii.

An Act to make Provision with respect to Capital fraudulently created in the Great Northern and East Lincolnshire Railway Companies.

CAP. cxxxix.

An Act for authorising an Extension of the Dorset Central Railway; for regulating the Capital of the Dorset Central Railway Company; and for other Purposes.

CAP. cxl.

An Act for consolidating the Acts relating to the Rhymney Railway Company, and for authorising the Company to make and maintain a Branch Railway, and for regulating the Capital of the Company; and for other Purposes.

CAP. cxli.

An Act for the Maintenance, Regulation, and Improvement of Watchet Harbour, in the County of Somerset; and for other Purposes.

CAP. cxlii.

An Act for the Transfer of the Docks of the Swansea Dock Company to the Swansea Harbour Trustees; and for authorising those Trustees to make further Works, and raise further Monies; and for other Purposes.

CAP. cxliii.

An Act for authorising Traffic Arrangements between the West End of London and Crystal Palace and the London, Brighton, and South-coast, the South-eastern, and London and South-western Railway Companies; for Sale of the West London and Crystal Palace Railway; for extending the Time for completing Railways; and for other Purposes.

CAP. cxliv.

An Act for repairing the Road from Haslingden to Todmorden, and several Branches therefrom, all in the County Palatine of Lancaster; and for other Purposes.

CAP. cxlv.

An Act to authorise the Construction of a Railway from Taunton to the Harbour of Watchet; and for other Purposes relating to the said Railway and Harbour.

CAP. cxlvi.

An Act to alter, amend, and consolidate the Acts relating to the Company of Proprietors of the Norfolk Estuary.

CAP. cxlvii.

An Act to provide for the Conservation of the River Thames, and for the Regulation, Management, and Improvement thereof.

CAP. cxlviii.

An Act to consolidate and amend the Acts for the more effectual Preservation and Increase of Salmon, and the Regulation of the Fisheries in the River Tweed.

CAP. cxlix.

An Act to authorise the Construction of a Railway from Castle Douglas, in the Stewartry of Kirkcudbright, to Portpatrick, in the County of Wigtown.

CAP. cl.

An Act to enable the Metropolitan Board of Works to form a Park for the Northern Suburbs of the Metropolis, to be called "Finsbury Park."

CAP. cli.

An Act to enable the Sittingbourne and Sheerness Railway Company to alter the Line and Levels of Portions of their authorised Line and abandon Portions thereof; to construct new Branches and other Works; to authorise Working Arrangements with the East Kent Railway Company; to amend the Sittingbourne and Sheerness Railway Act, 1856; and for other Purposes.

CAP. clii.

An Act for making a Railway from Herne Bay to Faversham, and for other Purposes connected therewith.

CAP. cliii.

An Act for enabling the Taff Vale Railway Company to construct new Lines of Railway, to alter, widen, and improve Portions of their existing Railway; and for other Purposes.

CAP. cliv.

An Act for the Transfer of the Interest of the Class A Shareholders of the St. Andrews and Quebec Railroad Company to the New Brunswick and Canada Railway and Land Company (Limited).

CAP. clv.

An Act to enable the South-eastern Railway Company to make or complete a short Line of Railway at Tunbridge; and for other Purposes.

CAP. clvi.

An Act enabling the Newry and Enniskillen Railway Company to construct their Railway as far as the City of Armagh; for changing the Name of the Company; and for consolidating their Acts.

CAP. clvii.

An Act for abolishing certain jurisdiction of the Sheriffs, Courts of the City of London, and for amending the Process, Practice, and Mode of Pleading in the Mayor's Court, and for extending the Jurisdiction thereof.

CAP. clviii.

An Act to authorise the Wycombe Railway Company to extend their Railway to Princes Risborough and to Thame.

CAP. clix.

An Act for incorporating the Eastern Bengal Railway Company, and for other Purposes.

CAP. clx.

An Act for authorising the Scinde Railway Company to extend their Operations, and for regulating the Capital of the Company; and for other Purposes.

CAP. clxi.

An Act for making a Railway from the Lancaster and Carlisle Railway, in the Parish of Kendal, in the County of Westmoreland, to the North-western Railway at or near Ingleton, in the West Riding of the County of York, with a Branch therefrom; and for other Purposes.

CAP. clxii.

An Act for consolidating the Docks at Liverpool and Birkenhead into one Estate, and for vesting the Control and Management of them in one Public Trust; and for other Purposes.

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